CHANCE, CHOICE AND RESPONSIBILITY

A responsibility-sensitive egalitarian interpretation of Michael Sandel's argumentation against genetic enhancement

Saara Johanna Ahola-Launonen

University of Helsinki
Faculty of Social Sciences
Social and Moral Philosophy

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HELSINGIN YLIOPISTO
HELSINGFORS UNIVERSITET
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Tekijä – Författare – Author
Ahola-Launonen, Johanna

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Tiivistelmä – Referat – Abstract

This thesis is an analysis of the relationship between the concepts of chance, choice and responsibility in Michael Sandel's "The Case against Perfection" (2007). Sandel predicts that if genetic enhancements were introduced in the society, the social meaning of these concepts would change significantly and social solidarity would vanish. He argues that that if people were able to control their genome and the element of chance in the genetic lottery would be replaced with choice, individuals could be held responsible for their deficiencies. Thus, the societal motivation to share our wealth with the disadvantaged would be eroded. However, the philosophical premises in Sandel's argument remain obscure. Therefore, a new means for the philosophical assessment of Sandel's argument is introduced in my thesis.

The method for the analysis is to examine the premises in Sandel's argument by comparing it to responsibility-sensitive egalitarian theories and their critique. The central literature used in the analysis is Sandel's "Liberalism and the Limits of Justice" (1982) and "Democracy's Discontent: America in Search of a Public Philosophy" (1996). The examination of responsibility-sensitive egalitarianism is based on Ronald Dworkin's article "What is Equality? Part 2: Equality of Resources" (1981) and contrasted to John Rawls' "A Theory of Justice" (1971), and the critique of responsibility-sensitive egalitarianism is derived from Samuel Scheffler's article "What is Egalitarianism?" (2003).

I suggest that Sandel's argument is based on the principle of responsibility of the responsibility-sensitive egalitarian theories: unequal outcomes are just if they arise from factors for which individuals can properly be held responsible and are otherwise unjust. As Sandel's argument entails this principle, the critique of the principle of responsibility can be applied to it.

I conclude that due to extensive critique posed to the principle of responsibility, Sandel's prediction about the changing notions of responsibility and solidarity is not as straightforward as he suggests. Furthermore, I propose that the principle of responsibility is not compatible with the general foundations of Sandel's philosophy, which are the aspiration for cultivating a strong sense of community and social solidarity. The principle of responsibility does not foster social solidarity and, therefore, is not suitable for Sandel's vision of a good society. This vision would be better achieved with a principle that guarantees a certain asset of basic needs to each person, regardless of the responsibility and control that people have in particular situations. It remains an open question why Sandel adopts in his argument the principle of responsibility that is contradictory to his general philosophy.

Avainsanat – Nyckelord – Keywords
Bioethics, genetic enhancement, Michael Sandel, responsibility-sensitive egalitarianism

HELSINGIN YLIOPISTO
HELSINGFORS UNIVERSITET
UNIVERSITY OF HELSINKI

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Tiivistelmä – Referat – Abstract

Pro gradu – tutkielmani käsittelee sattuman, valinnan ja vastuun käsitteiden välistä suhdetta Michael Sandelin teoksessa "The Case Against Perfection" (2007). Sandelin mukaan geneettisen parantelun käyttöönottaminen yhteiskunnassa muuttaisi merkittävästi näiden käsitteiden sosiaalista merkitystä ja poistaisi yhteiskunnallisen solidaarisuuden. Sandel väittää, että jos ihmiset voisivat kontrolloida perimäänsä ja geneettisen lottoarvonnan sattumanvaraisuus korvautuisi valinnoilla, yksilöä voitaisiin pitää vastuussa hänen vajaavaisuuksistaan. Seurauksena olisi, että sosiaalinen motivaatio jakaa vaurautta huono-osaisten kanssa heikentyisi merkittävästi. Ongelmallista on kuitenkin se, että Sandelin argumentin filosofiset lähtökohdat jäävät epäselviksi. Tämän vuoksi aion tutkielmassani nostaa esiin uuden tarkastelukeinon Sandelin argumentin filosofista arviointia varten.

Tutkielmani metodina on tarkastella Sandelin argumentin filosofisia lähtökohtia vertaamalla sitä vastuu-sensitiivisiin egalitaarisiin teorioihin ja niiden kritiikkiin. Analyysin keskeistä lähdekirjallisuutta ovat Sandelin "Liberalism and the Limits of Justice" (1982) ja "Democracy's Discontent: America in Search of a Public Philosophy" (1996). Vastuu-sensitiivisen egalitarismin tarkastelu perustuu Ronald Dworkinin artikkeliin "What is Equality? Part 2: Equality of Resources" (1981) ja sitä verrataan John Rawlsin teokseen "A Theory of Justice" (1971), ja vastuu-sensitiivisen egalitarismin kritiikki juontuu Samuel Schefflerin artikkelista "What is Egalitarianism?" (2003).

Totean pro gradu -työssäni, että Sandelin argumentti perustuu vastuu-sensitiivisen egalitarismin vastuuperiaatteeseen: epätasa-arvon voidaan katsoa olevan oikeutettua, mikäli se on peräisin seikoista joista yksilöä voidaan pitää vastuullisena, mutta muissa tapauksissa se on epäoikeutettua. Koska Sandelin argumentti sisältää tämän periaatteen, myös vastuuperiaatteen kritiikki on sovellettavissa siihen.

Tutkielmani johtopäätöksenä esitän että Sandelin käsitys muuttuvista vastuullisuuden ja solidaarisuuden käsitteistä ei ole niin yksioikoinen kuin hän esittää, sillä vastuuperiaatteelle voidaan esittää kattavaa kritiikkiä. Lisäksi totean, että vastuuperiaate ei ole yhteensopiva Sandelin filosofian yleisten periaatteiden kanssa, jotka ovat vahvan yhteisöllisyyden tunteen ja sosiaalisen solidaarisuuden kehittäminen. Vastuuperiaate ei edistä sosiaalista solidaarisuutta, jolloin se ei ole sopiva periaate toteuttamaan Sandelin näkemystä hyvästä yhteiskunnasta. Kyseisen näkemyksen toteuttamista palvelisi paremmin periaate, joka turvaisi tietyt perustarpeet jokaiselle huolimatta vastuusta ja kontrollista, joka yksilöillä on tietyissä tilanteissa. Avoimeksi kysymykseksi tutkimukseni osalta jää se, miksi Sandel omaksuu argumenttiinsa vastuuperiaatteen, joka on ristiriidassa hänen yleisen filosofisen ajattelunsa kanssa.

Avainsanat – Nyckelord – Keywords
Bioetiikka, geneettinen parantelu, Michael Sandel, vastuu-sensitiivinen egalitarismi

Introduction

During the last decades, knowledge of the human genome and hereditary mechanisms has been proliferated with remarkable speed, and this knowledge has raised possibilities especially in the field of medicine. At the moment, it is, for example, possible to identify the presence of certain defected genes in the genome of an embryo or an adult, and there is an increasing number of genetic therapies for mitigating the effects of these. However, the increased possibilities have also raised many hopes that go beyond the definition of conventional medicine. An example of these new envisioned technologies is genetic enhancement: with genetic enhancement, the practices in medicine would not only be used to cure diseases and restore normal human functioning, but also to enhance human functioning. This would then result in creating a human or humanity with improved characteristics such as intelligence, stamina, or memory.

These futuristic scenarios raise the question about the proper limits of genetic technologies, and the field of the ethics of human genetics is somewhat divided by those more liberal towards the use of novel genetic technologies, and those more reserved towards them. Much of the anxieties derive from the "old eugenics" that originated in the United States at the beginning of the 19th century as a national quest for preventing the breeding of those genetically unfit and improving the genetic makeup of the human race. Starting as a trend with "Fitter Families" -contests and eugenic education, it continued as compulsory sterilizations of 60,000 unfit persons in 29 states. From the United States, the eugenic trend was adopted to other countries, for example to Sweden, where forced sterilizations were administered between 1934 and 1975. This eugenic trend culminated in Germany, where the Nazis enforced the eugenic project as a powerful legislation and massacre. (Sandel 2007, 63−8.)

In the recent work by many influential scholars of the Anglo-American political philosophy, the language of eugenics is having a new start with the label of "liberal eugenics", a term that is used by both the proponents and opponents of this trend of thought. This new wave of eugenics is said to be fundamentally different from the old one, due to its central features that are non-coerciveness, freedom of choice, and state neutrality. Mainly it concerns freely made choices about the use of genetic enhancements. The liberal eugenicists argue that if coercion and the involvement of state as eugenic policymaker were removed, the injurious elements of eugenics would be eschewed. They consider that genetic enhancements will increase the domain of

individual choice and elevate well-being. (Sandel 2007, 68−75; Agar 1998, 137; Buchanan et al. 2001, 42−60.)

Thus, the discussion about genetic enhancement is on the one hand loaded with anxiety and moral disquiet, and on the other hand, with claims for individual rights and hopes of better well-being. Ethicists make varying suggestions and predictions concerning genetic enhancement and take sides for and against the permissibility and desirability of the imagined new technology. However, these scenarios are often outlined without thorough philosophical reasoning. Their justifications remain superficial, trusting on people's intuition, or assume certain philosophical premises without justifying these premises. For example, if genetic enhancements are advocated based on certain risk-benefit scenarios or claims of rights, the reason for accepting a consequentialist or deontological theory is not argued.

Michael Sandel's argument opposing genetic enhancements in his *The Case against Perfection* (2007) is an example of a bioethical argument that lacks explicit philosophical foundation. In his work, Sandel attempts to articulate with the use of non-religious arguments the reasons why genetic enhancements are morally unjustified *as such*, apart from the difficulties that the application of enhancements could introduce; such as safety, fairness, or autonomy.

Sandel's central concern is the new control that genetic technologies would enable if people were able to influence their own or their progeny's characteristics. With genetic enhancement technology, a person's genome and characteristics would no longer be a result of contingency and chance of the genetic lottery anymore, but an outcome of decisions and choices. Sandel argues that this new control and power would generate a sense of *hyperagency*, an overplayed sense of mastery towards one's capacities and existence, as the human vulnerability to the genetic lottery would no longer prevail. According to Sandel, the new situation with increased power and adopted hyperagency would bring a change in the social meaning of responsibility and solidarity.

At present, we cannot be held responsible for our genome because of its contingent origin. Recognizing this contingency, Sandel argues, we understand that our talents can never be considered wholly as our own accomplishment but rather as gifts and coincidences. Thus, we are motivated by a sense of solidarity to share our wealth with the ones who have had less luck in the genetic lottery. Sandel, however, argues that by controlling the genetic lottery, we would be held responsible for our genome and

blamed for its deficiencies. Consequently, as the genome would not be in the domain of chance anymore, but in the domain of choice, our motivation to share our wealth with the disadvantaged would vanish; thus, our sense of solidarity would be eroded. The pivotal disadvantage that Sandel emphasizes here is a certain *habit of mind* and a *way of being* that genetic enhancement would grant.

In my thesis, I will analyze the premises on which Sandel grounds his analysis of responsibility and luck. On what basis does he present that controlling our genome would result in increased responsibility and decreased solidarity? Is our willingness to assist our fellow citizens dependent on the degree of control they have in the various situations? Sandel does not himself provide any further philosophical justifications for his assumptions. A more thorough analysis is needed for assessing the validity of his argument: controlling our genome with genetic enhancements will result in increased responsibility and decreased solidarity. I will carry out this analysis by comparing Sandel's argument to responsibility-sensitive egalitarian theories and their critique. I claim that Sandel's argument shares similar basic premises with these theories and, therefore, the critique of responsibility-sensitive egalitarianism can be applied to Sandel's argument. I conclude that Sandel's argument is not as straightforward as he himself expects it to be.

The structure of my thesis is twofold. The chapters 1 and 2 are explicatory chapters expounding Sandel's argument and its philosophical background, thus creating the essential basis for the following chapters. The chapters 3 and 4 construct the central claim of my thesis: Sandel's argument is based on *the principle of responsibility* of responsibility-sensitive egalitarian theories: *unequal outcomes are just if they arise from factors for which individuals can properly be held responsible; otherwise they are unjust.* I claim that because of this shared fundamental premise, the critique of these theories can be applied to Sandel's argument as well.

In the first chapter, I am going to present Sandel's argument more thoroughly. I will start the chapter by introducing the argument in its entirety, and will then proceed by focusing especially on Sandel's conceptions of responsibility, luck and solidarity. In the end of the chapter, I am going to present the central discussion concerning these notions in Sandel's argument. It is to be noted that I will focus on Sandel's notions of responsibility, luck and solidarity and leave many other issues in his argument out of my consideration.

The second chapter connects Sandel's argument about genetic enhancements with his general philosophical thinking. I am going to explore the reason why Sandel gives such a determining role to the preservation of solidarity. This reason will be identified with Sandel's philosophical views: he draws from the teleological tradition emphasizing the importance of the pursuit of good life and the conceptions of the common good. I will demonstrate that, for Sandel, solidarity is a precondition for good life and an intrinsic element of the common good. The sense of solidarity entails the feeling of a shared fate, a sense of belonging and mutual understanding, and these matters are central to Sandel's communitarian conceptions of good life and good society.

In the third chapter, Sandel's argument will be connected to the principle of responsibility of responsibility-sensitive egalitarian theories. Before demonstrating this connection, Sandel's compatibility with egalitarian theories must be substantiated first, because responsibility-sensitive egalitarianism originates from egalitarian theories. If Sandel's argument would not be compatible with egalitarian theories, the connection could remain superficial. Thus, the chapter starts by identifying a shared premise of Sandel's philosophy and the egalitarian theories, especially in that of John Rawls. This premise, for which I will use the term *the egalitarian basic principle*, is the justification of redistributive institutions purported to mitigate the contingencies of social and natural lotteries. I argue that despite Sandel's and Rawls' different philosophical orientations in deontology and teleology, they both arrive at this same principle, but through dissimilar reasoning: Sandel with a justification related to the common good, and Rawls with a justification related to individual rights.

After this demonstration, it is possible to argue that Sandel's argument shares premises with responsibility-sensitive egalitarianism. I will claim that the relation between chance, choice and responsibility that Sandel presents in his argument about genetic enhancement is based on the principle of responsibility of responsibility-sensitive egalitarianism. Hence, the critique of the principle of responsibility can be applied to Sandel's argument.

However, I conclude the section by noting that it is not evident that *Sandel* endorses the principle of responsibility, but that *his argument* shares the basic elements of responsibility-sensitive egalitarian theories. As will be demonstrated further, the principle of responsibility seems to be incompatible with Sandel's other philosophical thinking. Therefore, it is probable that Sandel merely *predicts* how solidarity would

alter, without endorsing the principle of responsibility as such. Either way, his argument, normatively or descriptively, includes the principle of responsibility and can be criticized along its critique.

The fourth chapter proceeds with a reconsideration of Sandel's argument along the critique of responsibility-sensitive egalitarianism. I am going to start the chapter by introducing Samuel Scheffler's thorough critique of responsibility-sensitive egalitarianism and by presenting Scheffler's own view of the proper ideal for an egalitarian theory. Scheffler argues that the basis for redistributive institutions should not be founded on a relation between luck and responsibility, but on a Rawlsian conception of primary goods: persons should be entitled to the satisfaction of certain basic needs, regardless of the presence or absence of responsibility they have in their situations. According to Scheffler, the principle of responsibility in responsibility-sensitive egalitarian theories is philosophically doubtful and morally dubious because it is *harsh, unforgiving and insensitive to context.*

At the end of chapter 4, I will employ the critique that Scheffler addressed to responsibility-sensitive egalitarians for the consideration of the notions of chance, choice and responsibility in Sandel's argument. I will claim that the relation of these notions in Sandel's argument include the philosophically doubtful and morally dubious features that Scheffler blames responsibility-sensitive egalitarian theories of: Sandel's reasoning results in a situation in which people, who did not choose to use genetic technology for enhancing themselves or their progeny and, therefore, encountered unfortunate outcomes, would not be assisted with societal compensations. This scenario cannot ensure certain basic needs for the members of the society. If respect and concern for the value of all is appreciated in the society, the proper criteria for societal compensations should not depend on whether some outcomes of genetic characteristics are due to chance or choice, but whether they affect a person's status as a full member of the society.

In the concluding chapter, I will evaluate the relation between Sandel's argument about genetic enhancements and his other philosophical thinking. I will note that if Scheffler's critique is plausible, the principle of responsibility appears to be incompatible with Sandel's conception of good life: the judgmental element of responsibility-sensitive egalitarianism is not the best way to achieve a sense of solidarity and belonging. Therefore, the fact that Sandel employs the principle of responsibility in *the Case*

against Perfection is either philosophically inconsistent, if his argument is normative, or he outlines an implausible view about the foundations of the society, if his argument is descriptive. It remains an open question on what grounds Sandel includes such a principle in his argumentation.

Whether Sandel endorses the principle of responsibility or merely predicts a future according to it, the assessment of his argument requires that the premises in it are analyzed. I will conclude that the relation between responsibility, luck and solidarity that Sandel's presents in his argument about genetic enhancements is at least not as straightforward as he presents it to be.

A couple of remarks are needed before turning to the chapters. Firstly, I wish to note that my thesis is an argumentative analysis on Sandel's notions of chance, choice and responsibility in his argumentation against genetic enhancement. By criticizing this particular part in Sandel's argument, I do not criticize it in its totality nor argue on behalf of genetic enhancements. Secondly, it is important to recall that most genetic enhancements are, at present and most likely in the future, mere science fiction. The most discussed enhancements, such as the improvement of intelligence or other cognitive capacities, are multifactorial traits that are the outcome of complex genetic relations as well as environmental and social influence. Even if new interactions between specific genes and specific characteristics were discovered, the manipulation of some genes will probably never bring the wanted improvements to these characteristics. Despite this scientific reality, the question of introducing genetic enhancements is philosophically interesting and includes multiple normative questions that are relevant in the present society.

1. Genetic enhancements and the changing moral landscape

Michael Sandel (2007) discusses the potential effects that future genetic enhancements may induce in our sense of morality and human agency. Sandel grounds his argumentation on the moral importance of the genetic lottery, i.e. the contingency of our genome's constitution. According to Sandel, this contingency is the reason why a person's talents can never be considered wholly his own accomplishments but rather as gifts and coincidences, for the favorable traits are always at least partly the outcome of good luck. He argues that if genetic enhancements were routinely performed and the element of luck in the genetic lottery was replaced with choice and control, the moral concepts of humility, responsibility and solidarity would deteriorate as the senses of hyperagency and mastery were adopted.

The aim of the first chapter is to present the main lines of Sandel's argumentation, focusing on his notions of responsibility and luck. I will start by presenting the central reason why Sandel argues that especially genetic enhancements would change the morally relevant distinction between chance and choice: if enhancements were introduced, a sense of hyperagency would be emerged and the appreciation of the gifted character of human powers and achievements would be lost. In chapter 1.2, I will demonstrate Sandel's conception of the relation between hyperagency and decreasing humility, solidarity and a humane conception of responsibility. And in chapter 1.3, I will introduce the central discussion concerning Sandel's prediction about the alteration of these moral values. This discussion focuses on the relation between responsibility and luck, and on the influence that genetic enhancements could have on societal equality.

1.1. Hyperagency and going beyond normality

Sandel argues that *genetic enhancements* especially, not genetic *therapy* or *non-genetic* enhancements, would be the crucial factor in the emergence of hyperagency[1] and the erosion of the central moral values of humility, solidarity, and of the humane conception of responsibility. Therefore, attention will be given to Sandel's argumentation on why

[1] Sandel does not articulate clearly whether or not hyperagency would develop in a passive or active way: does it emerge passively or is it adopted actively. On the one hand, Sandel describes with active words that hyperagency is an *aspiration* to remake nature, a *pursuit* and a *drive* for mastery and perfection, and an *impulse* to rail against the given. On the other hand, hyperagency seems to something that merely will be evolved with genetic enhancements. A plausible explanation could be that along the societal pressures to enhance one's competitiveness, people drift in the adoption hyperagency.

genetic enhancements hold a significantly disquieting moral position and induce the adoption of hyperagency.

Sandel defines genetic enhancement as a practice aimed at surpassing normality, rising above the norm and reaching beyond health. Making ourselves "better than well" indicates the manipulation of our own or our children's nature by enhancing traits such as muscles, memory, moods, height, or physical and cognitive capacities. Thus, enhancements are the use of medical means for nonmedical purposes, such as using the treatment for Alzheimer-patients for memory enhancement of healthy persons. In contrast, the purpose of medical treatment is to cure, prevent disease, and restore normality. (Sandel 2007, 5−14.)

The leading thread in Sandel's argumentation is that genetic enhancements will cause changes in human agency, which is related with the ability to take responsibility for one's actions. Sandel discusses of *diminished* agency and *hyperagency*: diminished agency is a condition where this responsibility is decreased, whereas hyperagency elevates a person's responsibility of his actions by making him somehow over-capable.

Diminished agency, which involves the person who is enhanced, is a minor concern to Sandel. Due to diminished agency, an enhanced person could not consider himself worthy of praise or blame for his being and accomplishments, as the actual credit would belong to his designer, be it the parents or the pharmacist. As an extreme case of diminished agency, Sandel describes a wholly mechanistic bionic athlete who ceases to be a moral agent and becomes a product of his inventor. (Sandel 2007, 25−6.)

What Sandel regards as the major concern, however, is the emergence of hyperagency. If genetic enhancements were conducted, the ones who chose to use genetic enhancements would assimilate this agency:

> [T]hey [genetic enhancements] represent a kind of hyperagency, a Promethean aspiration to remake nature, including human nature, to serve our purposes and satisfy our desires. The problem is not the drift to mechanism but the drive to mastery. And what the drive to mastery misses, and may even destroy, is an appreciation of the gifted character of human powers and achievements. (Sandel 2007, 26−7.)

By the appreciation of the giftedness of life, Sandel means the recognition and acceptance of the existence of the genetic lottery. Due to the contingency in this lottery, no one can control his genetic constitution. Therefore, we must admit that *our talents*

and powers are not wholly our own doing, nor even fully ours, despite the efforts we make to develop them. The sense of giftedness implies a respect for life with the acceptance that everything in the world is not at our disposal in the way we desire and at our command to serve our purposes. Hence, a certain sentiment of humility is emerged. (Sandel 2007, 26−7.)

Thus, hyperagency is an agency that goes beyond the normal level of human capacities. The normal level refers to a belief that the genetic lottery cannot be controlled, and we remain vulnerable for the lottery's contingencies. However, if we controlled the lottery, we could overcome this vulnerability. For Sandel, this aspiration to overcome means the adoption of a sense of mastery and the losing of a genuine respect for life; the sense of giftedness.

Sandel discusses hyperagency especially in relation to parenting. He concludes that parents ought to consider their children to be gifts, accepting them as they come, without positioning them as objects and products of design. The proper virtue in parenting is "openness to the unbidden"[2], i.e., accepting the contingency of the child's character. This disposition restrains the impulse to master and control that hyperagency could promote. As Sandel contends, *the deepest moral objection to enhancement lies less in the perfection it seeks than in the human disposition it expresses and promotes.* Designer parents would become arrogant towards the genetic lottery, and they would lose the sense of giftedness. (Sandel 2007, 45−7.)

Sandel does not discuss how diminished agency and hyperagency could appear simultaneously, thus, making a person simultaneously over-capable and under-capable. This concurrent condition could appear when an adult, who adopts hyperagency because he chose to use enhancements for himself, also ends up with diminished agency, because his talents are the result of the physician's actions. Furthermore, an enhanced child with a diminished agency would suddenly adopt hyperagency when he reaches adulthood and decides to have designer children of his own. However, as further argued, Sandel is not concerned with particular situations of enhancements. He does not present an argument that would be able to respond to all countering examples and theoretical complexities, but rather focuses on *a habit of mind* and *a way of being* in a wider sense. If Sandel's agencies are understood as ways of being, and not as some normatively

[2] The expression *openness to unbidden* is originally from William F. May, who used this term in his comments to the President's Council on Bioethics (October 17, 2002) (Sandel 2007, 137).

significant conditions, the parallel existence of various agencies is more plausible. It is possible that a person feels the possession of multiple and even contradictory ways of being.

An important part of Sandel's argumentation is that the sense of giftedness is compatible with curing and restoring normality, even if the genome of a person or an embryo was manipulated. For Sandel, the significant difference is that curing does not override natural capacities but improves their flourishing. Even though medical treatment intervenes in a person's "nature", the motivation is to heal and preserve *the natural human functions that constitute health*. Hence, a hubristic sentiment of mastery and control is not attained. (Sandel 2007, 46−7.)

In validating the moral unease of genetic enhancements, Sandel must justify two debatable distinctions: the difference between restoring normality and going beyond it with enhancements, and the difference between genetic enhancements and other enhancements[3]. In the first distinction, Sandel explicitly rests on the concepts of normality and the natural. However, the boundary between disability, normal, and beyond normal is certainly questionable. Sandel himself admits that the essence of normal human functioning is not only a biological question, and is open to an argument whether, for example, deafness counts as a disability or as an identity (Sandel 2007, 47).[4]

[3] The liberal eugenicists reject both of these demarcations by arguing that improvements by genetic manipulation or by environmental modifications are normatively of the same weight, and that the limit of restoring or going beyond normality is of no moral importance. In contrast to Sandel, who wants to preserve the natural and normality, they argue that it is morally required to try to improve humanity with enhancements. (Agar 1998, 139; Dworkin 2000, 452; Harris 2007, 19−28, 111−2; Savulescu 2001, 413−425.)

[4] The discussion on normal human functioning is generally based on Christopher Boorse's definition on *the normal function model*: "[t]he state of an organism is theoretically healthy, e.g. free of disease, insofar as its mode of functioning conforms to the natural design of that kind of organism" (Boorse 1975, 57). For example Cathleen Schulte criticizes this model by emphasizing that all the definitions of functions are dependent on environmental context and that the conceptions of normality must acknowledge the impact the socially created environment has in determining the functional context (Schulte 2010, 102–105). Allen Buchanan et al. also discuss the limits of normality related to genetic enhancement and admit that natural assets that count as desirable or defective are at least partly determined by the social structure: the cooperative dominant framework defines the favoured traits. Different traits will be counted as resources in different social environments and depending on various conceptions of goof life. Thus, the notion of species-typical normal functioning ought not to be a value-based natural baseline. (Buchanan et al. 2001, 79−80.) However, they state that the natural baseline has no metaphysical importance, needs no special respect by maintaining or restoring it and can be altered over time. They argue that the baseline only has relevance as a central criterion for the public conception of what we owe to each other by way of medical assistance. (Buchanan et al. 2001, 150−1.)

Sandel attempts to draw a line between enhancing and restoring normality by referring to the concept of telos. This Aristotelian concept means that every practice has its own purpose, goal, and final end (NE 1094a1−19). Sandel argues that defining whether a certain act of improvement is enhancing or restoring normality depends on the telos of the practice in question. For example, in sports, the relevant matter is the telos of the sport in question and the virtues relevant to the game. According to Sandel, the purpose and meaning in sports culminate in the honoring of the cultivation and display of human beings' natural talents. Thus, the limit of improving and corrupting depends on what the virtues essential to the game are and whether some new technology highlights or obscures the talents that distinguish the best players. (Sandel 2007, 37−8.) Likewise, the telos of the practice of medicine is in healing and restoring normal human functioning. Sandel points out that even if the demarcation of normality was disputed, it is assumed that the purpose of medicine is to promote health, not surpass it. (Sandel 2007, 47.)

Sandel provides many examples from sports to clarify the distinction between enhancement and restoring normality. As an uncomplicated example he takes running shoes in marathon. As the virtue relevant to the game is running as fast as possible, running shoes highlight rather than obscure the excellence that the race is meant to display by reducing the risk that runners would confront contingencies unrelated to the race, like stepping barefoot on a sharp pebble. In contrast, riding the subway for a part of the race clearly would corrupt it. A more complicated example is given from music performances, where it is common for musicians to use beta-blockers to keep them calm before a show. Defenders argue that using beta-blockers does not make anyone a better violinist, but simply removes an obstacle enabling the performers to display their true musical gifts. Opponents argue that this is cheating, and state that a part of being a musician is to defeat the nervousness and fear in a natural way. Is equanimity a virtue intrinsic to music performance? (Sandel 2007, 37−9.)

However, Sandel's argumentation based on telos begs the question of normality. If the telos is positioned in restoring normality or cultivating natural gifts, the conceptions of normal and natural remain open. Sandel, nevertheless, refrains even from the attempt of giving a more specific account for normality. Instead, he argues that the diffuse line between enhancement and restoring normality does not undermine the meaning of this distinction (Sandel 2007, 49). Sandel condemns the attempts to nullify this limit by

referring to the *sorites paradox*[5]. This concept originates from the ancient Greece, where sophists employed sorites arguments in order to persuade their listeners that two separate entities, connected with some continuum, are in reality the same even though common intuition would claim otherwise. For example, with baldness, it is impossible to say exactly when a person becomes bald: even though it is agreed that having one or three hair still counts as bald, the proper number of hairs for not being bald cannot be defined. Still, bald and non-bald are not the same. (Sandel 2007, 118.) Likewise, even though the proper limit between natural, unnatural and supernatural is indefinite, it does not mean that no such limits exist[6].

The second demarcation that Sandel has to justify in order to prove the moral unease of genetic enhancements is the difference between genetic enhancements and other kinds of enhancements. Sandel himself notices that if the opposition of enhancements is based on overriding the natural gifts, the problem is larger than with mere genetic alterations, since going beyond normality is also present in widely accepted improvements (Sandel 2007, 31). These more or less accepted improvements include, for example, altitude house training and colossal mass-increasing diets in sports (Sandel 2007 32−5), as well as several heavily managed high-pressure child-rearing practices, such as enhancing children's competitiveness with career-focused Ivy-League[7] kindergartens or even prescribing Ritalin[8] for toddlers to achieve better concentration skills (Sandel 2007, 58−60). Sandel admits that the line between genetic enhancement, education, and training is indeed indefinite and morally less significant than it seems (Sandel 2007, 61). However, he turns his justification into a new direction with a parity-of-reasoning argument by asserting that the similarities between different practices of enhancement fail to vindicate genetic enhancements[9]. On the contrary, Sandel argues, the similarity highlights the problems with other enhancements that heavily strive for leveling up performance and competitiveness in the society (Sandel 2007, 51−2).

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[5] *Sorites* comes from *soros*, the Greek word for "heap": even though it cannot be stated how many grains count as a heap, there is a difference between a grain and a heap. (Sandel 2007, 118.)

[6] Sandel originally uses the *sorites paradox* in the debate about the moral status of an embryo or a fetus, for disclosing that even though the moment when the morally relevant life begins cannot be defined, it still does not mean that a blastocyst and a baby are morally the same (Sandel 2007, 118−9).

[7] Ivy-League is a term for the group of the most appreciated universities in the United States (universities of Brown, Columbia, Cornell, Dartmouth, Harvard, Princeton, Pennsylvania and Yale).

[8] Ritalin is a psychostimulant drug, traditionally used in the treatment of attention-deficit hyperactivity disorder (ADHD) for improving the patients' ability to concentrate and perform their daily tasks.

[9] 'Parity of reasoning' arguments show that two particular normative positions are morally similar, but whether this reasoning ends in restriction or approval depends on the moral intuitions that direct it. For Sandel, the similarity between the two normality-surpassing practices means that they should both be banned. (Häyry 2010, 225, 233.)

In recapitulating Sandel's argumentation on the moral difference of genetic enhancements from the acceptable restoring of normality as well as from other kinds of enhancements, it is notable that in neither distinction Sandel is not even trying to be specific. With the conception of normality, demanding for precise definitions would actually not even be fair because such definitions, especially in a general level, are extremely unattainable. A large grey area between restoring normality and going above it must be accepted, and Sandel focuses on arguing the moral disquiet of the latter. In tracing the line between various enhancements, Sandel appeals to the moral unease related to all enhancements reaching too far from the normal functioning of a human being, aiming at the powerful boosting of performance in the society. Thus, what matters in both distinctions is the intention and requirement of going above normality, not the absolute position of some demarcation.

Hence, the deepest source of moral trouble for Sandel is the impulse of dissatisfaction on the current nature of human beings, and the aspiration to perfection, adopted from the society's demands to improve our competitiveness (Sandel 2007, 61). As Sandel has articulated, the impulse in question is the drive to mastery, and this sense of hyperagency will inflict the significant change in the morally meaningful context of chance and choice. Reading Sandel, be it that also other enhancements can increase the impulse of hyperagency in people's life, it is genetic enhancements that amplify this agency to a new extent, and definitely produce a novel stance of mastery, when parents can, with certainty, affect their progeny's genetic constitution. While almost every other aspect in society is coming more in the power of consumer choice, Sandel stipulates that human genome and human nature ought not to be subordinated to this commodification, appearing in trait-shopping.

Sandel understands that using genetic enhancements and mastering our genetic constitution are often considered to foster freedom in the human life by increasing the effect of control. Nevertheless, he contends that it is actually the opposite of freedom if the human nature is transformed in order to fit the world with increasing competitive demands, rather than the other way around. Sandel stipulates that true empowerment would be adjusting the existing social and political institutions to respect the imperfection and limitedness of human beings. (Sandel 2007, 96−7.)

Sandel has been accused of employing vague, conservative and even religious arguments by his critics, who claim a more liberal departure for genetic enhancements.

For example, Carson Strong claims that Sandel has only wrapped up a religious argument about God given gifts in secular covers (Strong 2005, 30−1). John Harris rejects Sandel's argument in whole as a mere skepticism to change, demanding more precise arguments for the reasons exactly why enhancements ought not be delivered and the obligation to maximize well-being fulfilled (Harris 2007, 109−119). In addition, Frances M. Kamm asks why the benefits of enhancing cannot be greater than the supposed harms in moral sentiments, and condemns the sense of mastery as an adequate reason for forbidding enhancements (Kamm 2005, 8−9). As Matti Häyry explicates, it is difficult to compare the different parties of the debate because of the separate philosophical premises and the disagreement over the value of logical consistency. Häyry explains that liberal eugenicists, such as Harris, draw from the tradition of liberal consequentialism and demand for rationalism and the avoidance of lofty moral arguments. Sandel, on the other hand, descends from the teleological and communitarian tradition, emphasizing that the moral issues ought to be holistically confronted in their complexity, accepting that they cannot be analyzed in logical, reasonable fragments. Hence, Sandel's starting question about the meaning of life, which is encountered more often in religious contexts, is easily arraigned from other traditions. (Häyry 2010, 25−31, 232.)

Sandel recognizes this contradiction but emphasizes that the debate at hand needs to transcend the traditional concepts of individual rights and utilitarian cost-benefit scenarios in order to be adequate. Sandel urges more existential dimensions in considering genetic engineering, and, as presented in this chapter, he is concerned about certain habits of mind and ways of being. For Sandel, these dimensions are expressed in the cultivation of the proper kind of freedom in our society, thus, fitting the demands of society to our nature rather than the other way around, and preserving the essential social practices of humility and solidarity. (Sandel 2007, 96.)

Michael Hauskeller further explicates Sandel's position. According to Hauskeller, Sandel's main concern is not the harm that enhancements might cause to the one who is enhanced, but the harm that enhancing could inflict on the enhancer. Hauskeller explains that when A enhances B, B might not be harmed at all, but A *always* is, because A adopts hyperagency and loses his appreciation of the giftedness of human life. This is why genetic enhancement is wrong in all situations: enhancing always damages humility, humility is a virtue, and preserving virtues is what Sandel's whole argument is about. (Hauskeller 2011, 59−60.)

The reason why Sandel's whole argument is about virtues will be explicated in chapter 2: Sandel's philosophy draws from the teleological tradition and is therefore concentrated on preserving and cultivating essential virtues of the human life. Section 1.2, however, will continue to explore Sandel's argument about genetic enhancements. Here I will focus on Sandel's notions of responsibility and solidarity.

1.2. Alterations in the moral landscape

By now, we have seen that Sandel has made efforts to substantiate the moral unease of genetic enhancements, that is, the assimilation of hyperagency and a sense of mastery, affecting the diminishing appreciation of the gifted character of human talents and achievements. But what would actually be lost if biotechnology dissolved our sense of giftedness? Sandel elucidates that if genetic technology dispelled the sentiment that our abilities and accomplishments are the outcome of contingency, pivotal elements in our moral landscape would transform. Recognizing the effect of contingency in one's life is the social premise for humility, social solidarity and a humane conception of responsibility. Accustomed to the control over one's own genome, the social basis of these values would be diminished. (Sandel 2007, 86.)

By humility, Sandel means the openness to unbidden and the reconciliation that everything is not in our dominion. He emphasizes that this disposition should not be endorsed only within families, but also in the larger context of societies, thus promoting the toleration of dissonance. Being aware of the contingency of our talents and recognizing that our abilities are not wholly our own achievement restrains the hubristic tendency. However, if the genetic lottery was controlled with genetic engineering, the moral position of chance would be replaced with choice, and the sense of humility would deteriorate when talents were harder to consider as gifts rather than achievements. (Sandel 2007, 86−7.)

According to Sandel, this new situation with a dominion over our genetic constitution would also change the position of individual responsibility, by increasing its importance[10]. As the genome turns into an outcome of choices, parents will encounter a new level of liability as they would be responsible for choosing or for not choosing the

[10] The conception of responsibility is understood in this thesis as it is in Sandel's prediction about its altered meaning, and as it is presented in the responsibility-sensitive egalitarian theories, explicated in chapter 3: responsibility is the criterion for assessing whether or not a person should bear the consequences in his disadvantageous situation. Thus, responsibility has effects in redistributive measures. This conception of responsibility can be contrasted with, for example, moral responsibility, in which ascribing praise or blame for a person does not necessarily lead to societal consequences.

most pre-eminent traits for their children. As Sandel predicts, parents could even be held morally responsible for their children's possible defects if they declined from genetic engineering. He states that the more command is gained over our genetic composition, the more we will become responsible for its excellence or deficiency. Thus, Sandel concludes that it is a relief that we are not wholly responsible for the way we are, since a constitutive part of it is owned to chance. (Sandel 2007, 87.) Although parents can have a great influence on their children, even the most honorable parents *cannot be held wholly responsible* for the way their progeny is, if the children's genome is the outcome of chance (Sandel 2007, 45).

Sandel already notices the increased responsibility in the present society[11] in the moral burdens that appear in prenatal testing. Prior to easily performed prenatal testing, delivering a child with Down's syndrome was perceived as a matter of chance. However, with the new prenatal monitoring technologies, the element of choice has started to override the realm of chance. Many parents, who have children with genetic disabilities, are feeling judged or blamed, since they *could* have prevented the birth of a sick child. As Sandel declares, even if parents can choose whether or not to use prenatal testing, and whether or not the outcome of the test will inflict any action, they cannot escape the existence of the choice itself and the moral responsibility emerged with the new habits of control. Sandel prefigures that when prenatal technologies become even more standard procedures for pregnancies, parents who decline to use genetic screening will be considered to be "flying blind" and will be held responsible for their children's genetic disorders. (Sandel 2007, 88−9.)

In construing the definition for social solidarity, Sandel gives the outline of the relationship between responsibility and luck. Sandel does not deliver an explicit description for this relation, but the strong relation that people can be held responsible for the affairs they can impact, can be derived from the paragraphs on social solidarity.

According to Sandel, social solidarity derives from a sense of owing. Sandel assesses that due to the powerful influence of chance in the genetic lottery, we cannot consider ourselves to deserve all the profit from our natural talents, which are the outcomes of good luck instead of our own doing. As our talents are more coincidences or gifts than deserved achievements, we cannot consider ourselves to be entitled to the unmitigated bounty merited in the market economy. In the opposite, Sandel construes, we have an

[11] It is noteworthy that the society Sandel is considering is the United States.

obligation to distribute this benefit *with those who, through no fault of their own,* lack comparable gifts. Thus, the relationship between solidarity and the sense of giftedness is a close one. (Sandel 2007, 91.) As Sandel suggests,

> A lively sense of the contingency of our gifts – an awareness that none of us is wholly responsible for his or her success – saves a meritocratic society from sliding into the smug assumption that success is the crown of virtue, that the rich are rich because they are more deserving than the poor. (Sandel 2007, 91.)

Sandel predicts that hyperagency and the considerable increase in responsibility will result in a decrease in social solidarity. He designates this as the loss of wanting to *share our fate with others*. (Sandel 2007, 89.) If our genetic composition was mastered, the sense of owing to those less advantaged would weaken as they could be held responsible for their own position, if they did not choose genetic enhancements:

> If genetic engineering enabled us to override the results of the genetic lottery, to replace chance with choice, the gifted character of human powers and achievements would recede, and with it, perhaps, our capacity to see ourselves as sharing a common fate. The successful would become even more likely than they are now to view themselves as self-made and self-sufficient, and hence wholly responsible for their success. Those at the bottom of society would be viewed not as disadvantaged, and so worthy of a measure of compensation, but as simply unfit, and so worthy of eugenic repair. The meritocracy, less chastened by chance, would become harder, less forgiving. As perfect genetic knowledge would end the simulacrum of solidarity in insurance markets, perfect genetic control would erode the actual solidarity that arises when men and women reflect on the contingency of their talents and fortunes. (Sandel 2007, 91−2.)

Sandel reinforces the concept of diminishing solidarity by comparing it to the solidaristic aspect in insurance. Unaware of the various diseases or misfortunes people might encounter, they pool their risk by buying health and life insurances. The outcome is non-intentional mutuality, as the healthy will subsidize the unhealthy. However, this mutuality will be achieved only if people are uninformed of their risk factors and cannot control them. If people could reliably predict their medical history, those confident with good health would opt out of the pool and cause hard price increases to those determined to sickness. In Sandel's terms, those with good genes would flee the actuarial company, leaving those with bad genes behind, and the solidaristic aspect of

insurance would disappear.[12] Similarly, in the wider society, Sandel speculates, the ability to choose genetic enhancements and master one's life would weaken the moral sentiments necessary to social solidarity. (Sandel 2007, 89−92.)

Hence, Sandel posits a powerful relationship between responsibility and the ability to choose. Sandel predicts that individuals could be held responsible for their traits or the lack of them, because with genetic enhancements it could be possible to make actual decisions about one's genotype. Thus, people would be held responsible for the outcomes of their decisions concerning their or their children's genome, because they would be able to control the outcome. In contrast, if no such choices exist, the effect of the genetic lottery prevails, and people cannot be held responsible for their traits. This principle of responsibility can be connected to the theories of responsibility-sensitive egalitarianism, and the connection between these theories and Sandel's argument will be analyzed in detail in chapter 3.

When examining Sandel's claims on adopting hyperagency and losing the sense of solidarity, it is noteworthy that their logical relation is not evident. Sandel's argumentative chain seems to be divided into two sections: firstly, the assertion of the importance of preserving the sense of giftedness and avoiding hyperagency, and secondly, the prediction of the loss of important social values, such as solidarity. But is the loss of solidarity only a consequence of hyperagency, and do they have some causal relation[13]? For if it is so, the loss of solidarity would be reduced to a mere outcome, deflating the power of Sandel's argument that is indicated for demonstrating the moral issues of enhancements as such, not only those of their consequences.

However, a more plausible way of interpretation that takes into account Sandel's position as a neo-Aristotelian virtue ethicist[14] is that the relation between the sense of giftedness and solidarity is intrinsic rather than causal. Sandel's central conceptions can be organized in clusters that belong to a same kind of virtue. Humility, considering

[12] Even though Sandel's comparison is somewhat illustrating, it is noteworthy that the issue with insurance policies is more complicated than Sandel outlines. For example, the problem of vanishing solidarity in insurance is not limited to genetic knowledge: much of a person's medical history is already predictable with the medical history of the family. Thus, people already are aware of many of their risk factors and, in addition, can have an influence on many of these factors. The literature about genetic knowledge and insurance is extensive; for example Eli Feiring discusses widely the issues of insurance, genetic responsibility and justice (Feiring 2009, 300−310).

[13] For example, Kamm questions the validity of Sandel's argument in adjudging it as mere consequentialism. She challenges the causal relation by claiming that adopting the sense of hyperagency will not necessarily lead to the undesirable implications Sandel predicts. (Kamm 2005, 5−9.)

[14] Häyry gives this category to Sandel (Häyry 2010, 27).

talents and traits as gifts rather than fully one's own achievements, openness to unbidden, the sense of solidarity and humane responsibility are of the same virtue, as they cultivate the society in a desirable way. On the other hand, hubris, the sense of mastery, hyperagency, considering one's talents and traits in the domain of choices and personal accomplishments, the loss of solidarity and bursting responsibility represent the same vice, pursuing for perfection and remodeling human nature. The concepts in the same family of virtue or vice are intrinsic to each other and not one another's consequences. The manipulation of the genome becomes a virtue or a vice only after an attribute of a certain habit of mind and a way of being is attached to it, as in the distinction of the Aristotelian concepts of *praksis* and *poiesis*.[15] If the genome is manipulated with a hubristic habit of mind it is a vice, but if technologies are used with humility, the practice is virtuous.

1.3. Challenging Sandel's argument about the loss of solidarity

Sandel's critics comment the argument about the vanishing solidarity from two perspectives. Firstly, the strong relation between responsibility and choice that Sandel assumes is debated. The more weight posited on that relation, the more plausible the alterations in our moral landscape are supposed to be. In spite of the varying assumptions that the different authors have about this relation, most of them suggest that genetic enhancements should be introduced.

Secondly, it is argued that with genetic enhancements, the society would become more equal and the meaning of solidarity in the society would diminish. While Sandel argues that the sense of solidarity is required in order to motivate people for maintaining redistributive institutions, his critics claim that if natural assets were introduced in distributive schemes, there would be less bad luck to compensate for, and solidarity would not be needed that much anymore. The plausibility of the latter scenario depends on the level of confidence put in the abilities of genetic enhancement to increase the overall equality and well-being in the society.

[15] The difference between *praksis* and *poiesis* is that in *praksis*, the activity and the end are intrinsic, but in *poiesis*, the end is separate from the activity. (NE 1139a30–1139b5, 1140a1–24). Likewise, mere genetic manipulation is only *poiesis* by its nature, while genetic manipulation with a certain attitude and end has the nature of *praksis*.

1.3.1. The relation between responsibility and choice

Various understandings about the relation between responsibility and choice induce different predictions about the effect that genetic enhancements could have in existing morality. If a strong relation is assumed to exist and the possibility to control one's genome increased remarkably, changes in conceptions of responsibility and other moral values are expected. For example, Ronald Dworkin holds this position. In addition, Ori Lev believes in a strong relation, but adduces more requirements for the changes to take place. In contrast, Kamm does not believe that responsibility and choice would have such a strong relation, and therefore, she doubts that genetic enhancements would have any of the predicted consequences on moral and social values.

Dworkin emphasizes the normative significance of the contingency in the genetic lottery that sets the limit between the matters in our lives that can be altered by our choices, and circumstances that cannot be influenced. For Dworkin, this limit is the backbone of our morality, and it defines the boundaries of individual responsibility. He argues that we can be held responsible only for the matters we can influence and not for other matters, and that there is greater responsibility to compensate for the victims of such circumstances they themselves cannot affect. Dworkin argues that, at the moment, the measure of our responsibility is our genetic constitution, and one cannot be blamed for the way he was born. This precondition could be changed with genetic engineering. (Dworkin 2000, 443−6.) Also Lev states, referring to Dworkin, that personal responsibility has a central role in the (Western) political systems and that societal institutions actually depend on the possibility of assigning personal responsibility for freely made choices. Therefore, it is of great importance to consider the effects that genetic enhancement would have on the conception of responsibility. (Lev 2009, 180.)

Dworkin believes that any changes in this backbone will result in moral instability, especially in the domain of individual responsibility. He underlines that if the possibilities in the field of genetics were taken seriously, the breakdown of our moral and ethical code could start almost at any moment. In spite of these possible changes, Dworkin sees no reason to resist genetic enhancements. In the opposite, he argues that enhancing the lives of the future generations is the only morally and ethically responsible act to do, and our moral norms should be adjusted to the new situation. Dworkin's rights-based justification for his conclusion derive from his *ethical individualism*, which holds that it is objectively, from the society's point of view, important that any human life succeed rather than fail, and that the individual has the

right to make decisions that define what successful life is for him.[16] According to Dworkin, these principles command that it is our duty and responsibility to make the lives of future generations longer and more full of talent and achievement. (Dworkin 2000, 445−6, 452.) Thus, Dworkin seems to hold that it is the individual's right to choose to use enhancements, and that it is the society's duty to promote enhancement-technologies so that individuals are able to choose the most successful lives.

Harris concurs that, in spite of the alteration in our moral landscape, we must employ enhancements for being able to create a better human nature. According to Harris, we are responsible for using our abilities in genetic engineering because we are able to do so[17]. In contrast to Dworkin, Harris arrives to his conclusion with consequentialist reasoning: with enhancement technologies it is, in general, possible to achieve more well-being and less suffering. The significant issue to Harris is overall well-being, and he states that fairness does not require that benefits should not be provided to any until they can be made available to all. (Harris 2007, 28−9; 117−122.)

Albeit agreeing with Dworkin about the significant relation between choice, luck and responsibility, Lev is more cautious about the inevitable nature of the change in our moral landscape. Moreover, unlike Dworkin and Harris, he emphasizes the importance of preserving the existing values of solidarity and a humane conception of responsibility. With the motivation to demarcate the circumstances harmful to the maintainable values, Lev outlines a proposal for the conditions that would lead to such corruption of solidarity that Sandel predicts. (Lev 2009, 177−9.)

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[16] As a solution to a new ethical framework of the altered moral landscape, Dworkin offers a theory that is founded on the above-mentioned principles of ethical individualism. Dworkin defines his theory as liberal (freedom to define good life for oneself) and egalitarian (people are of equal importance and social institutions follow this egalitarian principle), and it distributes risks and benefits while recognizing the responsibility people bear by their choices, but not the effects of brute luck, including the genetic lottery. (Dworkin 2000, 448−9.) However, it seems that Dworkin's solution is the same theory that he has suggested also elsewhere (see Chapter 3), thus, it remains open whether or not Dworkin's solution would have any contribution in a situation in which the genetic lottery could actually be controlled.

[17] The line of argument about the necessity to use all existing technology, given by Harris and Dworkin, has been challenged by Andrew Edgar. Edgar contrasts this enthusiastic attitude to genetic technologies with Adorno's and Horkheimer's main thesis in *Dialectic of Enlightenment* (2002): the Enlightenment project, aimed to reveal and oppose dogmatic suspicions, has itself become a dogma as technological development has become an end rather than a means, thus, a dogma in itself. Therefore, the Enlightenment project, using critical reflection for various dogmatic believes, lost its own ability for self-critical reflection. In this spirit, Edgar suggests that the scholars of enthusiastic attitude to genetic technology have lost their ability to critical reflection of their goals and have positioned the use of new technologies as an unquestioned truth. (Edgar 2009, 159–160.) Jürgen Habermas explicates this tendency by disclosing that because the development of science and technology are most often related to the improvement of economy and the increase in individual choices, science has long had a strong alliance with the spirit of liberalism, and restrictive policies to science are rarely accepted (Habermas 2003, 24−6). Thus, the political atmosphere advocates liberal approaches to science.

Lev's proposal is based on the fact that for Sandel, the social premise for solidarity is the recognition of the effect of contingency in one's life, and thus, solidarity would be undermined if this contingency would vanish. Therefore, Lev focuses on outlining the circumstances in which luck and other arbitrary issues would not influence the use of enhancements.

First, Lev suggests that enhancements should be administered only to adults. This is because only adults are autonomous in the sense that they can make informed consent decisions. If enhancements had an effect only on embryos or children, luck would still have a central role in one's genetic constitution, as the decisions would not be made by the enhanced individual, but by parents. Secondly, enhancements should be universally available. Without universal access, luck and arbitrariness would still have a major role in determining the ones who would be able to the access the enhancements. Thus, everyone would not be able to make genuine choices concerning the use of enhancements, if wealth or accessible enhancements were limiting facts. Finally, Lev suggests that enhancements should be safely and equally effectively provided to any adult. If the influence of enhancements varied individually and produced unwanted outcomes or side-effects for some, it would still depend on chance which people would be suitable for enhancements. (Lev 2009, 178−9.)

Lev concludes that only under these conditions, luck and other arbitrary issues would not have an effect the use of enhancements, and it could be concluded that talent or the lack of it would not depend on luck anymore but on choice. Consequently, solidarity, defined as the recognition of the arbitrariness of one's talent or the lack of them, would be undermined. (Lev 2009, 177−9.) It could be furthermore added to Lev's requirements that the achieved control by genetic enhancements should be fundamental, inducing permanent changes in people's overall lives. For if not, in spite of the enhancement of some genetic traits, the effect of a person's socioeconomic position in the start of his life would still have a major contribution. Genetic manipulation would not affect the family to which one is born: the parents' education, living area and other social capital. People would still share the fate of the contingency of social contingencies and therefore, the sense of solidarity would still be present.

The conditions outlined by Lev lead to an interesting conclusion. If Lev's proposal is true, it turns Sandel's argument into a difficult paradox: solidarity could be preserved only by keeping enhancements only as a privilege of the wealthy, by restricting

enhancements for adults, and by assuring that enhancements would not be suitable for all. Thus, if we wanted to eschew the circumstances that could lead to diminishing solidarity, we would be forced to avoid the combination of universally available enhancements that are effective and safe to all people. But are these requirements not the only proper manner for introducing enhancements, for if not, would at least the value of equality, which is certainly related to solidarity, be undermined?

Lev himself adduces that solidarity could also be affected by administering the significant enhancements only for those who can afford them, because the gap between those well-off and those worst-off would become so large that the wealthy would lose their ability to empathize with the indigent, thus creating two classes of people (Lev 2009, 179). It seems that Lev's analysis leads to either the conclusion that Sandel's argument is a logical fallacy, in which both the absence and presence of the solidarity-preserving elements lead to diminished solidarity, or to the affirmation for Sandel's benefit that through whatever means enhancements will be administered, they will necessarily lead to the corruption of important social values.

Unlike the ones who believe in a strong relation between responsibility and choice, Kamm thinks that genetic enhancements will have no significant changes in our moral landscape. She contradicts the normative weight that Sandel places on the relation of making choices and being responsible for them, and doubts the idea that people would be blamed if they failed to give themselves or others the most desirable characteristics. For Kamm, the more plausible motivation for the duty to aid others derives from the respect and concern for the value of other persons rather than from the degree of responsibility they bear in their situations. Kamm emphasizes that since there is no duty to make oneself the best possible, one cannot be held responsible for not doing all that is possible in order to achieve perfection[18]. She adds that, at any rate, children could not be held responsible for their parents' decisions. (Kamm 2005, 12−3.)

Interestingly, also Sandel notices that genetically enhanced children would certainly not be held responsible for their traits, but they would remain indebted for their characteristics (Sandel 2007, 87). But how will the parents bear the burden of

[18] According to Lev, Sandel's prognosis on the enormously increasing burden of responsibility will only take place if an obligation to enhance exists. Without an obligation to use enhancements, failing to do so should have little moral consequences, and the burden of responsibility would be immutable. What Lev considers a bigger problem is that people would most likely behave as there was an obligation to enhance, and hold each other responsible for the outcomes that could be avoided with enhancements. This misapprehension of responsibility is the real problem. At least in legal sphere, these misunderstandings could be avoided, but it is more difficult in the actual society. (Lev 2009, 180.)

responsibility, if this burden ought not to apply to the child who through no fault of his own carries a particular genome? It is evident that almost any burden, be it economical, moral or both, will also affect the child in some negative way.

As can be discovered, there is no agreement on the certainty of the upcoming changes in our moral landscape. Predictions depend on the different philosophical conceptions of responsibility and speculations about empirical scenarios. Philosophically, the most remarkable feature in the question of preserving solidarity is the relation between responsibility and chance in the ability to control one's genome.

1.3.2. Enhancements as a means for improving equality

A shared view within many of the proponents of genetic enhancements is that enhancements would introduce new means for redistribution and decrease the need for it. This feature is related to the maintenance and elevation of solidarity. Harris argues that the more enhancements will be performed, the less there will be bad luck to compensate for (Harris 2007, 120). Kamm notes that in addition to redistributing wealth, also natural assets could be distributed, leading to better opportunities for being more productive (Kamm 2005, 13). Both conclude that even if the sense of solidarity decreased, the outcome with genetic enhancements would be better. They seem to predict that less solidarity would be needed as the gap between the wealthy and the less wealthy would decrease due to enhancements. But would enhancements actually remove the need for solidarity by leveling the playing field more equally among all socioeconomic groups?

Dworkin admits that it would not be possible to make the new techniques available for everyone, at least not in the beginning. If a community tried to deliver enhancements for everyone and spent all its resources on health care, there would not be left any means for other societal necessities such as education and culture, and citizens would only be enabled to live somewhat longer in misery. However, he concludes that the wealthy should still be allowed to purchase expensive therapies at the market rate, because demand stimulates research and, in time, creates benefits that have value for everyone. (Dworkin 2000, 436−440.) G.K.D. Crozier and Christopher Hajzler term this process as the market stimulus effect, i.e. the outcome of a set of mechanisms whereby the early adoption of a new technology by wealthy consumers promote better and cheaper versions of that product, thus leading to more availability to those less wealthy. However, they question whether this effect would be powerful enough for vindicating

the free-marketing of this new technology of genetic enhancements. (Crozier and Hajzler 2010, 161.)

Crozier and Hajzler argue that the market stimulus effect could remain insufficient for preventing the widening gap between rich and poor. They point out that even a small widening might be detrimental to the health and the overall well-being of the less wealthy.[19] Thus, even though everyone's living standards would increase after genetic enhancements, the widening or remaining width of the gap is a sufficient threat to the health of the poor for questioning the benefits of the market stimulus effect. In addition, it could be that the benefits of the market stimulus effect would never reach the poor, but only the middle-class, remaining largely irrelevant to those worst-off. The market stimulus effect would probably not be powerful enough, because genetic enhancements will most likely remain of specialized nature, requiring highly trained professionals. Thus, it is unlikely that the market stimulus effect would decrease the prices of enhancements in the same way as, for example, cellular phones. (Crozier and Hajzler 2010, 170−2.)

Crozier and Hajzler point out that if the aim is to achieve more equality and well-being in the society by leveling up the worst-off, genomic interventions will not be the most effective means. They state that better nutrition, education and overall development with rising standards of living will certainly be more cost-effective methods for improving the overall mental capabilities and competitiveness of a society, than technological innovations. (Crozier and Hajzler 2010, 172.) Thus, why not effectuate the objective of more equality and well-being immediately with existing means? Why should genetic enhancement be the answer for improving societal well-being and equality when much more plausible means are available?

A further issue to contemplate is that is the idea of introducing genetic enhancements to redistributive schemes compatible with the notion of genetic enhancements as individually made genetic decisions in the private market. The liberal eugenic principle is that genetic enhancement must be non-coercive, freely chosen and the state must be neutral towards these choices. However, if enhancement was a means for redistribution, would this not implicate some government-oriented standards? If the state compensated for the lack of some traits, a compensation policy should surely exist. Thus, the

[19] Crozier and Hajzler refer to Richard Wilkinson's and Kate Pickett's enquiry when describing how social inequalities are harmful to health; they are linked e.g. to prevalence of social problems and lower life expectancy (Crozier and Hajzler 2010, 170 [Wilkinson and Pickett 2009, 31−45]).

decisions about genetic enhancement would not after all belong entirely to the individual's domain of choice.

For example, Allen Buchanan et al. note that certain all-purpose enhancements are useful in any plan of life, and could be encouraged by the state. Just as parents are required to assure health and education for their children, they could be claimed to give these certain enhancements to their progeny. (Buchanan et al 2001, 174.) Furthermore, Dworkin and Julian Savulescu both claim that enhancing evolution and selecting the best possible life for one's child could be morally required (Dworkin 2000, 452; Savulescu 2001, 413−425). As Sandel notes, liberal eugenics has more compulsion than what first appears and does not after all reject all state-imposed genetics (Sandel 2007, 78−9).

Elizabeth Anderson adds that it would be offending to connect redistributive schemes to a state-originated level of normality. If people were divided to unfit and fit, and to compensable and non-compensable, the ones who remained under that limit would be stigmatized. Anderson contemplates the ways in which the state could announce to a person in a non-offensive way that his IQ was below a certain level and that he would be entitled to compensations for that. Anderson argues that these kinds of redistributive principles would not increase genuine equality in a society, at least not in the meaning of assuring equal respect for every citizen.[20] (Anderson 1999, 305−6.)

The difficulty in the debate is that whether or not the enhancements would have positive or negative outcomes in the notions of responsibility and solidarity is an empirical question for which we lack data (Lev 2009, 181). Therefore, none of the positions in the enhancement debate can be either proved or falsified. The philosophically interesting domain is in the analysis of the premises given in the debate. After introducing the different standpoints related to Sandel's argument about the diminishing solidarity and the increasing burden of responsibility, I will now focus on exploring the philosophical premises of these arguments.

[20] Anderson does not consider issues in genetic enhancement and the distribution of natural assets, but focuses on societal compensations. However, her comments about the effects that a state-centered norm of normal level of certain characteristics could have are applicable also in the context of distributing natural assets.

2. Sandel and the philosophy of the common good

After introducing the different standpoints related to Sandel's argument about the diminishing solidarity and the increasing burden of responsibility, I will now focus on exploring the philosophical premises of these arguments.

The main difference between Sandel and the ones holding a more permissive approach to genetic enhancements is that for Sandel, the most important thing is to preserve the social values of humility and solidarity, regardless of the possible advantages and opportunities that enhancements could introduce. In contrast, the proponents of genetic enhancements argue that even though they affected changes in our moral landscape, the new genetic technology should still be introduced. It is claimed that genetic enhancements would produce more well-being and equality in the society and that the improvement of humanity is even morally required. Typically to the liberal eugenicist argumentation, also individual rights are emphasized: why should one not have the right to choose genetic enhancements if he wanted so?

Hence, the question is that on what grounds Sandel defends his position, neglecting individual rights and the overall benefit? What philosophical premises does he have in saying that preserving solidarity is more important than the individual freedom of choice or the possible benefit for humanity?

The answer lies in that Sandel's philosophical starting point is in the communitarian tradition, whereas approaches emphasizing the overall benefit and individual rights draw from consequentialist and deontological theories. As Häyry states, in contrast to consequentialist outcome- and utility-directed ethics and deontological rule- and duty-based ethics, Sandel can be associated with teleological purpose- and virtue-oriented ethics. Häyry places Sandel under the notion *neo-Aristotelian* for Sandel draws from Aristotle's thinking but adds two millennia of philosophy in it. (Häyry 2010, 27.)

Häyry explicates further the differences of these three normative doctrines of the Western moral philosophy in the bioethical context and decision-making. The proponents of consequentialist approaches emphasize *measuring* i.e. minimizing harms and maximizing benefits, while the proponents of deontological approaches highlight *negotiating* by following certain procedures and principles in decision making. In contrast, the teleological approach concentrates on *sensing*. This approach holds a closer relation between values and norms, and considers community traditions and ways of life

more significant than consequences and principles. As Häyry marks, this *moral transcendence* approach is less calculating and less individualistic than the other doctrines. (Häyry 2010, 228−9, 232.)

In this chapter, I will present the premises on which Sandel grounds the priority of preserving certain social values, such as humility and solidarity. I will start the investigation of Sandel's philosophical premises by introducing the critique Sandel poses to Rawlsian liberalism, because Sandel is arguably best understood by exploring this critique. Then, I will proceed by analyzing Sandel's own views: Sandel's teleological starting points emphasizing good life and communal values and the position that solidarity has within them, and the *politics of the common good* that Sandel aims to justify. Exploring these premises create a basis for understanding the reasons why Sandel gives such weight for the maintenance of solidarity. This understanding will be essential for the analysis in chapters 3 and 4 on Sandel's conceptions of chance, choice and responsibility.

2.1. Balancing between the right and the good

The leading thread in Sandel's philosophical work is in criticizing the prevailing political culture in the United States: the rights-based framework that aims for the state's neutrality on conceptions of the good. This critique derives from Sandel's most influential philosophical work *Liberalism and the Limits of Justice* (1982), in which he criticizes what he names deontological liberalism: the liberalism that John Rawls outlined in his *A Theory of Justice* (1971). Sandel is most commonly known as a critic of Rawls and presents the foundations of his own philosophical views in contrast to him. Therefore, I will start my examination of Sandel's philosophy from this critique[21].

2.1.1. The critique of the primacy of rights

The liberalism that Sandel criticizes is, by his own definition, deontological liberalism: a theory of the primacy of justice among moral and political ideals. Sandel states that its central thesis is that the best way to arrange a society with a plurality of persons, who all have their own ends and desires, is to govern it by principles that do not *themselves* presuppose any particular conception of the good. (Sandel 1998, 1.)

[21] It is noteworthy that I will focus on presenting Sandel's philosophical premises that can be derived from his critique, and not review Sandel's critique of Rawlsian liberalism at length and analyze its validity.

Deontological liberalism has its roots in Kantian liberalism, emphasizing the autonomy, rationality and individuality of a person. Formulating this idea more suitably for the present, Rawls refined it in his theory of justice as fairness, where the two principles of justice[22] governing the society are found in the original position, an ideal hypothetical situation behind the veil of ignorance, where rational people deliberate about justice without any knowledge of their particular positions in the society. Thus, the principles of justice are impartial, founded by an overlapping consensus, and independently derived; therefore, they do not depend on any particular conceptions of the good, which would depend on contingent desires of persons. The conception of justice defined in this way is always to be the first virtue in social institutions. (Rawls 1999a, 1–20, 118–130, 395; Sandel 1998, 1–7.)

According to Sandel, the priority of the right over the good is not well-grounded, because this priority misses the relation between the self and the community, and between justice and the good. Sandel asks that if justice is more than just another value because it is derived independently from any conceptions of the good, what is the basis of justice and rights? (Sandel 1998, 6−7.)

The first issue in Sandel's critique is the self-image that, in his view, deontological liberalism requires. According to Sandel, this required conception of a person is voluntaristic, entailing that a person's values and ends are always attributes and never constituents of the self. Subjects are assumed to be unencumbered of any commitments outside the subject and free of communal ties regarding the values and conceptions of the good. Sandel draws this requirement especially from the original position, where the hypothetical deliberators are supposed to choose the principles of justice without any knowledge of their background. Sandel maintains that, within the liberal conception, the most essential issues in our personality are not the ends we choose but the capacity to choose them. Just as the right is assumed to be prior to the good, the subject is prior to its objects and its ends. The self is what the subject *is* and its objects are only what the subject *has*. (Sandel 1998, 7−9, 15−22.)

Sandel asserts that this liberalistic self-image is flawed because the subject cannot be detached from what it has. The self is attached to the community, and being a person to

[22] Rawls' final statement on the principles of justice is, in lexical order: 1.Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all. 2. Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions and fair equality of opportunity (Rawls 1999a, 266).

whom justice is primary requires us to be creatures of a certain kind, related to human circumstances in a certain way. (Sandel 1998, 49.) According to Sandel, to imagine a person without constitutive attachments to a family, nation or community is not to conceive an ideally free and rational agent, but to imagine a person wholly without character and moral depth. Sandel emphasizes that humans need a history in order to have a character and a narrative on which to build plans of life. Furthermore, political deliberation is not only about various policies and principles but also about competing interpretations of the character and ends of the community. Thus, moral attachments from communal ties cannot be renounced. [23] (Sandel 1998, 179; Sandel 1996, 350−1.)

Hence, Sandel asserts that justice cannot be primary in the deontological sense because we cannot coherently regard ourselves as the kinds of beings the deontological ethics requires us to be. Accordingly, impartial deliberation on the principles of justice is impossible, because the existence of impartial deliberators is impossible[24]. (Sandel 1998, 14.) According to Sandel, the community does not describe only what individuals *have*, but also what they *are*. The community is not a mere attribute, but a constituent of the self. (Sandel 1998, 150.)

The conception of a person that Sandel presents in his critique of the primacy of rights is an important and constitutive part of his political philosophy, and the community's foundational character of the self is present throughout his argumentation. The emphasis on the community also links Sandel to the familiar communitarian doctrine about the primacy of the community over the individual.

The second issue in Sandel's critique of the primacy of justice is the assertion that justice and rights are independent of any particular conception of the good life. He emphasizes that justice cannot be detached from the considerations of the good, and

[23] According to Thomas Pogge, Rawls actually claims no such absolute priorities of the self being prior to its ends, of the right prior to the good, of justice over other values, and the principles of justice over the choice of conceptions of the good. Pogge specifies that Rawls is not making such claims concerning citizens in their personal affairs and accuses Sandel of undermining this distinction between the political and personal contexts. (Pogge 87–91.) Especially in his later work, Rawls does make the difference between the public identity of a person who is to consider the rights over the goods and the nonpublic identity of persons that are to have more loyalties and commitments to their community than the rational, justice-oriented, impartial individual behind the veil of ignorance. (Rawls 2005, 29–35.) Thus, although Rawls' original position has certain practical difficulties and questionable premises, it can be suggested that Sandel overplays these issues.

[24] Sandel also links this spurious voluntarism to the frustration in the [American] society that has absorbed the liberal self-image that is, however, at odds with the actual organization of modern social and economic life. "Even as we think and act as freely choosing, independent selves, we confront a world governed by impersonal structures of power that defy our understanding and control. The voluntaristic conception of freedom leaves us ill equipped to contend with this condition." (Sandel 2005, 28–29; Sandel 1996, 201–203.)

reflections about justice are always also reflections about the good. Sandel states that as a philosophical matter, reflections about justice cannot reasonably be detached from reflections about the nature of the good life and the highest human ends, and as a political matter, deliberations about justice and rights cannot proceed without reference to the conceptions of the good. (Sandel 2005, 213.)

Sandel grounds his claim on the relation between justice and the conceptions of the good on the teleological tradition and Aristotle. Aristotle maintains that the establishment of the best possible constitution of a society requires that a definition of the most desirable life be decided first (*Politics*, 1323a14). Following this teleological notion, Sandel asserts that the principles of justice necessarily depend on their justification of the moral worth or the intrinsic good of the ends they serve. The recognition of a right depends on showing that it honors or advances some important human good. (Sandel 1998, xi.) In considering, for example, the rights to free speech and religious liberty, Sandel emphasizes that it is not the respect of people's capacity to choose their beliefs and opinions that matter and validate these rights. What really matters are the especially worthy practices and activities that these rights protect. (Sandel 1996, 291.)

Thus, Sandel states that our moral convictions and best understanding in conceptions of the good life and the highest human ends should not be set aside when considering the principles of justice that govern the basic structure of the society (Sandel 2005, 219). Deontological liberalism insists on a neutral framework of rights because given conceptions of the good would undermine the independent self and its capability of choosing its own ends, but Sandel claims that it is not always even possible to define rights and duties without taking up substantive moral questions (Sandel 1998, 1−9; Sandel 2009, 220).

Sandel takes the abortion debate as an example that cannot be solved without taking a stand on an underlying moral and religious controversy. The anti-abortion side claims that abortion should be banned because it involves the taking of an innocent human life, and the pro-choice side claims that, since the law should not take sides concerning the moral and theological debate about the beginning of the life, women should be allowed to decide for themselves whether or not to have an abortion. However, Sandel argues, the liberal argument does not succeed because if the developing fetus actually would be morally equivalent to a child, abortion would be morally equivalent to infanticide,

which the government would hardly wish to legalize. So, the liberal argument implicitly rests on the assumption that the Catholic Church teaching on the moral status of the fetus is false, and so the liberal argument fails to be neutral on the underlying moral question. Sandel suggests that the liberal argument should concentrate on showing that the developing fetus really is not a person, which Sandel believes is certainly possible. Sandel concludes that the more confident we are that fetuses are different from babies, the more confident the government can be in leaving the moral question aside. (Sandel 2009, 251–2; 2005, 225–6.)

In addition, Sandel claims that Rawls' principles of justice are themselves dependent on a certain conception of the good. Sandel argues that the difference principle, i.e. social and economic inequalities are to be arranged so that they are both to the greatest benefit of the least advantaged, is not neutral, and an adequate defense of it must presuppose a conception of the person unavailable to deontological assumptions. Sandel asserts that we cannot, at the same time, be subjects for whom justice is primary and be subjects for whom the difference principle is a principle of justice. (Sandel 1998, 66.)

As Sandel explicates, the difference principle states that since one's assets are only his by accident, he does not deserve them, and the society has a claim for the profit resulting from these assets. However, Sandel claims that for this to be true, one must count himself as a member of a community defined in part by its ends so that the elements of solidarity and fraternity in the difference principle will appear reasonable. But in this case, one ceases to be unencumbered by constitutive attachments. (Sandel 1998, 178.) Chantal Mouffe accurately encapsulates Sandel's central thesis about the contradiction in Rawls' theory about self-image and the priority of the right. Mouffe explicates that the unencumbered conception of the subject, incapable of constitutive engagements, is at the same time necessary for the right to have priority over the good, and contradictory to the difference principle, which Rawls intends to justify to be a principle of justice (Mouffe 1988, 198).

Sandel admits that it is tempting to seek a principle that would cover all the areas of the distribution of income or power and justify the results. Such a principle would enable us to avoid disagreements about the good life. However, it is impossible to avoid these disagreements since justice is inevitably judgmental. Whatever we are arguing about, questions of justice are always bound up with competing notions of virtue, honor and

recognition, and questions about the good. Justice is not only about the right way to distribute things. It is also about the right way to value things. (Sandel 2009, 261.)

Sandel's critique of the primacy of rights, presented in this section, is essential for understanding the first step in his argument of weighting solidarity over the right to choose genetic enhancements: this individual right cannot be valued as such, independently of reflections on what is good, and without considering the practices and conceptions of the good that the right protects. The question to ask is whether the right to choose enhancements really advances some human good. After explaining Sandel's justification about not giving primacy to rights, I am going to proceed to considering *what kind of a good* is the good that Sandel wants to protect, and the reasons why he gives solidarity such weight.

2.1.2. Common good and civic virtues

When Sandel's argumentation and critique of Rawlsian liberalism is examined, Sandel's philosophical position as an Aristotelian communitarian is visible. Instead of emphasizing rights in a deontological manner, he claims using teleological terms that both the self and the community, and the right and the good are inseparable.

Even though Sandel does not construct a full alternative to the Rawlsian theory of justice and focuses on showing the limits of deontological liberalism, the fundamental elements of his own endorsed political philosophy can be observed in his writings. As noted, the elements that Sandel emphasizes in his critique are the fundamental role of the community in the constitution of the self and the relation of justice to the conceptions of the good life and the highest human ends. Sandel terms his alternative *the politics of the common good,* which relates justice to the conceptions of the good. In this section, I will examine Sandel's understanding about this common good.

Sandel's first philosophical principle is pursuing a good life with the politics of the common good. This primary aim of politics is drawn relatively directly from Aristotle's philosophy. According to Aristotle, a state cannot reduce its activity only to the prevention of injustice and the provision of a living for its members, because in such case, the state is a mere alliance and association of people, who happen to live in the same area. Aristotle demands more from a society. He claims that, even though the state must certainly assure justice and livelihood, it must also make it possible for its members to be able to live well and promote practices that contribute towards a good

life. The pursuit of the good life is the purpose of the state. (Sandel 2009, 192−5 [*Politics* 1280a−b].)

This spirit is also the founding element of Sandel's critique of liberalism: the Rawlsian outlining of the society, which assures certain primary rights, is just not enough for Sandel. The Sandelian claim seems to be that a society must be more than a mere guarantor of rights. It must also play a role in the aspirations of achieving a good life and improving the quality of life for its members. In Aristotelian terms, the purpose of human life is to pursue its telos, i.e. to live a virtuous life, and the society must support this aspiration by promoting the common good. Thus, the common good is the good that aims towards the highest human ends and a good life, and common good is achieved through practices that contribute towards a good life.

How, then, is the common good defined? According to Sandel, this notion is defined by *deliberating with fellow citizens about the common good and helping to shape the destiny of the political community*. Thus, common good is defined through the deliberation of the community, and his politics of the good rest on the idea that conceptions of the common good can be deliberated in the community with a virtuous practice of politics[25]. Virtuous politics must first deliberate about the conception of common good, and then adjust the principles governing the society to this common good. (Sandel 1996, 5–6.)

Sandel recognizes that the deliberation about the common good is not a simple issue to succeed in, and he largely focuses on how the virtuous politics can be achieved. According to Sandel, the successful deliberation about the common good requires knowledge of public affairs and a sense of belonging; a concern for the whole and a moral bond with the community whose fate is at stake. To be able to possess all these elements, the citizens need certain qualities of character: civic virtues. (Sandel 1996, 5–6.)

Thus, civic virtues are such qualities of character that enable us to feel a sense of belonging and share a moral bond with our fellow citizens. Civic virtues make us realize

[25] Sandel's definition of the common good as an outcome of deliberation is confusing because in the teleological, or Aristotelian, tradition the common good is usually defined as a natural matter that evolves from the society. However, it seems to be that the outcome of Sandel's deliberation is not genuinely free, in a liberal sense, because citizens are expected be of certain kind, possessing civic virtues, and are probably expected to deliberate about the common good in a certain way. This emphasizing of the virtue maintains Sandel's political philosophy within the teleological tradition. This issue will be discussed in the next sections.

that we share one another's fate and make us understand the profound role of the community in our existence. With the understanding of this shared fate and a sense of belonging, we are motivated to understand our fellow citizens and strive for a mutual comprehension in the deliberation about the common good.

These characterizations of civic virtues make a conclusive connection between Sandel's politics of the common good and his argumentation that opposes genetic enhancements. Even though Sandel does not directly term the practices of solidarity, humility, and sense of giftedness as civic virtues, it is credible that these values represent that what Sandel means by civic virtues. For Sandel, these practices are directly related to the sense of belonging and sensing a moral bond with the community. Consequently, losing the sense of belonging is related to losing the sense of solidarity. Thus, solidarity is a civic virtue, which is required for the virtuous deliberation about the common good, and this deliberation is required for the achievement of the common good itself. Hence, solidarity is an intrinsic element of the common good.

In his writings, Sandel does explicitly name a particular civic virtue. According to Sandel, the civic virtue distinctive to our time is the capacity to negotiate our way in the modern society, in which various conflicting views, interests, tensions and obligations take place. This civic virtue means that citizens must be able to take one another's position and act as *multiply-situated selves.* (Sandel 1996, 350.) This requirement for being able to think from many perspectives seems to have exactly the same direction as solidarity in aiming to elevate intersubjective understanding and the feeling of shared fate.

Throughout his writings, Sandel discusses a central means to foster civic virtues and the sense of sharing fate. This issue, noted in chapter 1 and more thoroughly examined in chapter 3, is that the level of socioeconomic inequality should not increase too much.

According to Sandel, large socioeconomic inequalities decrease the sense of belonging. Sandel worries that if inequality is too deep, the lives of the rich and the poor will be so distinct that they practically will not encounter one another anymore. This will take place if the different socioeconomic classes do not share schools, institutions of daily affairs and other public places. According to Sandel, public places should gather people together and function as a platform for achieving common experiences, cultivating civic engagement and forming habits of citizenship. Sandel emphasizes that the membership

and civic identity of the rich and the poor must be affirmed alike. (Sandel 1996, 329−333.)

Thus, Sandel states that when the gap between the rich and the poor increases and their lives get separated, the sense of belonging is more difficult to maintain. This means that civic virtues become difficult to sustain and the deliberation about the common good becomes even more challenging. (Sandel 2005, 57.) The conception of severe inequality that degrades the sense of community also originates from Aristotle. According to Aristotle, large inequality affects the virtuous practice of politics because the rich, who are distracted by luxury, are unwilling to submit to the rule, while the poor, suffering from envy and necessity, are too subservient and do not know how to govern. Thus, both are incapable for the deliberation about the common good. Furthermore, Aristotle highlights that a society of extremes lacks the spirit of friendship. If people are too far from one another, the sense of partnership is altered to a relation of enemies, and enemies do not want to share their fate. (Sandel 1996, 330 [*Politics* 1295b].)

Hence, Sandel argues that the politics of the good, or any political philosophy attempting to revitalize the sense of community in a society, must consider the economic arrangements that are the most hospitable for sustaining civic virtues and a sense of belonging (Sandel 2005, 58). Sandel concludes that in order to deliberate about the good life and pursue it, the senses of community and social solidarity must be strengthened by decreasing the level of socioeconomic inequality. (Sandel 2009, 263–8.) Thus, the wish to decrease socioeconomic inequality could also be counted as a civic virtue, connected to the sense of solidarity.

The recapitulation of Sandel's notion of the common good is somewhat tautological. The Sandelian civic virtues that enable the virtuous deliberation about the common good are, for example, the sense of belonging, solidarity, humility, and the ability to intersubjective understanding. However, the common good, which is the objective of the deliberation facilitated by civic virtues, includes similar contents: the Sandelian common good seems to be a situation in which the members of a society possess the sense of solidarity, humility, the sense of belonging and the ability to intersubjective understanding. Thus, the means and the ends are the same: by sensing solidarity, solidarity is achieved.

However, this structure of an argument is familiar from the Aristotelian teleological ethics. For Aristotle, the highest end in human life, happiness, is achieved by the proper

function of a man: acting virtuously. Happiness is attained through learning and training moral virtues, and moral virtue is formed by habit and acquired by action. According to Aristotle, we become just by the practice of just actions and courageous by performing the acts of courage. Hence, virtuous characteristics develop from corresponding activities. (NE 1097b−1099b, 1103a−b.)

This teleological explanation clarifies Sandel's argumentation. The relation of civic virtues and the common good is intrinsic: to achieve the common good, that is, to end up in a situation in which the members of a society have the sense of solidarity and understand each other, the corresponding civic virtues must be practiced and cultivated. Thus, Sandel's emphasis on social practices, such as solidarity and humility, becomes understandable: for Sandel, they are the constituting elements of the common good and the highest human ends.

2.1.3. Politics of the common good in a modern society

It is relevant to ask how Sandel would realize his politics of the common good in a modern society. Sandel's answer affects the interpretation of his argument opposing genetic enhancements as well as outlining the possible policies that Sandel would be ready to introduce for protecting solidarity and other civic virtues he wants to preserve.

Sandel wants to distinguish himself from the forms of communitarian politics that seek a unitary and uncontestable common good, which is based on tradition. Sandel argues that this conventionalist communitarianism gives no more attention to the good than the liberalistic rights-based theory. According to Sandel, both of them neglect that what is good: liberals leave the good aside in making the right prior, and communitarians do the same mistake by making the tradition prior. (Sandel 1998, xi.)

Sandel recognizes that when politics is related to moral and religious disputes, coercion and intolerance could take place. However, Sandel asserts that his vision is more clamorous than consensual and that it does not try to uniform people. For such politics of moral engagement that maintain the respect for pluralism, Sandel suggests *a democratic and pluralistic republican politics*. (Sandel 1996, 320–321.) Sandel argues that democratic and pluralistic republican politics would strengthen the intersubjective understanding in a society. According to Sandel, a wide public engagement with moral disagreements could elevate mutual respect, when people would listen and learn from

each other by deliberating the different views of good life.[26] Thus, by introducing moral values in the political debate, it would be possible to diminish intolerance.[27] (Sandel 2009, 268–9.)

Hence, Sandel attempts to assert that his vision of the politics of the good cannot be considered as a return to such conservative politics that defend the efforts of the local majorities to ban offensive activities in the name of preserving their community's values, as for example Amy Gutmann suggests[28] (Gutmann 1985, 309). It seems that for Sandel, the most important thing is not necessarily the outcome of the debate, but the process of deliberation that strengthens mutual understanding, communal solidarity and togetherness, that is, civic virtues. This process allows pluralistic and opposing views and does not necessarily require a unified consensus.

However, Sandel strongly emphasizes that the deliberators must possess civic virtues in order to practice virtuous politics. It seems that Sandel expects the deliberators to be of certain kind, appreciating conceptions of the common good in a certain way. Would Sandel accept that the definition of the common good be deliberated by citizens that do not possess civic virtues? If Sandel requires that the deliberators must be such that they arrive at certain notions of the common good, it remains open whether this process is a genuine deliberation. This emphasizing of virtue maintains Sandel's argumentation within the teleological tradition, even though his position resembles deontological strategies that emphasize negotiating.

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[26] According to Pogge, it is impossible that the people in the original position would agree on conceptions of the common good. He emphasizes that Rawls' political liberalism is a practical solution for a social system with large disagreement over moral values. (Pogge 1989, 92.) In addition, Amy Gutmann highlights the practical value of Rawls' theory in a pluralistic and modern society. She argues that the reason to accept a politics of rights is not the metaphysical priority of the right over the good, but because our search for the good requires the society to protect our right to certain basic freedoms and welfare goods. Giving priority to justice may be the fairest way of sharing the goods of citizenship with people, who disagree about conceptions of the good. (Gutmann 1985, 311–313.)

[27] Sandel discusses especially the situation in the present American society. According to Sandel, the intolerant atmosphere of the American life is a consequence of the neutral framework of rights. Sandel asserts that such neutrality creates a spurious respect that suppresses the moral argument rather than actually avoids it. For Sandel, this suppression combined with a society without a sense of community is what actually creates intolerance and prejudice. (Sandel 2009, 268–9.)

[28] Gutmann is skeptical about Sandel's optimism for creating a democratic and pluralistic republican politics. Gutmann states that Sandel has no actual evidence from history that would prove that his optimist vision of a settled-rooted society with established traditions and the great tolerance of speech, sexuality and religion could ever occur. Gutmann accuses Sandel for wanting to have it both ways: Sandel wants to live in a traditional and communal society without having any of its negative impacts. Gutmann argues that even though almost anything is possible, including Sandel's vision, it does not make moral sense to leave liberal politics behind on the basis of such speculations. However, Gutmann acknowledges the constructive potential that the communitarian emphasis on communal values has on contemporary politics, but argues that these values should be viewed as complementing rather than supplanting elements to liberal values. (Gutmann 1985, 318–320.)

Sandel further strengthens his differentiation from the communitarian theories that aim to the unitary good based on tradition by setting limitations for his critique of the primacy of rights. Sandel explicates that the question for him is not whether the rights should be respected, but whether they can be identified and justified in a way that does not presuppose any particular conception of the good. Sandel emphasizes that the issue is not the relative weight of the individual and communal claims, but the relation between the right and the good: the rights should depend on the justification for the moral importance of their ends. (Sandel 2005, 213.) Nevertheless, Sandel remarks that on any theory of justice, certain general rules are required to spare the decision-makers the need to recur to the first principles in all the cases that comes to them, but sometimes, *in hard cases, judges cannot apply such rules without appealing directly to the moral purposes that justify rights in the first place*. (Sandel 1998, xi–xvi.)

Thus, Sandel is not trying to replace the politics of the rights with the politics of the good, at least not in the meaning of giving a veto for the community in every case the decision-making part of it considers that a particular right offenses its traditions. Sandel's point seems to be that rights as such are not immune to critique, and can be questioned if they seem to be incompatible with that what is good. In actual situations, Sandel would trust the ability of the civic-virtuous decision-making parties' to deliberate, with intersubjective understanding, about what is the common good in that particular situation; that is, what solution is the most compatible with values such as solidarity.

2.2. The common good and genetic enhancements

Examining Sandel's philosophical starting point in the virtue-oriented teleology creates a foundation for his argumentation about the importance of preserving solidarity. In conclusion to chapter 2, I will recall Sandel's conception of the common good and discuss its relation to his argumentation that opposes genetic enhancements.

As noted, Sandel's philosophical starting point is the pursuit of good life. With Sandel's neo-Aristotelian terms, the definition of good life is founded on the fundamental role of the community in the constitution of the self, the cultivation of the civic virtues, and the practice of virtuous politics and the deliberation about the common good. The common good and the civic virtues are intrinsic: the elements of the common good can be achieved by practicing the corresponding civic virtues. For Sandel, the common good entails a society in which the senses of solidarity and the sense of belonging flourish,

and the realization of this society requires that its members express these characteristics. This is why solidarity and the other civic virtues are so important to Sandel. They encapsulate good life and the highest human ends.

Thus, Sandel's argument is that in order to achieve a good life, it is more important to preserve the social practices of solidarity and humility and to cultivate these civic virtues than to claim for individual rights in the decision making that concerns genetic enhancements or for some speculated overall benefit that the enhancements could introduce. According to Sandel's philosophy, an individual should not automatically have the right to choose genetic enhancements because enhancements endanger the existence of certain values, such as solidarity, and it is of the greatest importance to maintain these values. In the same way as the right is not, at least automatically, prior to the good, the right to use genetic enhancements is not automatically prior to the preservation of solidarity.

As Häyry explicates Sandel, the issue with genetic enhancements is not personal freedom or well-being, but the loss of important social practices, such as the sense of giftedness, humility, a limited sense of responsibility, and solidarity. These features could be lost with the adoption of hyperagency. (Häyry 2010, 34−5.) Häyry concludes that these practices are what morally matter the most to Sandel: the loss of unconstrained freedom and material well-being of individuals is a small price to pay for the preservation of human dignity and social solidarity. (Häyry 2010, 232.)

As Hauskeller encapsulates, virtues are all that matter to Sandel and they are what his whole argument seems to be about. In the Aristotelian sense, virtue is the precondition for the good life, and Hauskeller presumes that a lively appreciation of giftedness might well be such a precondition. Hauskeller interprets that to Sandel solidarity is not a means but an end, and therefore, it is the virtue itself that must be cherished. It is not enough to focus on the outcomes of enhancement policies in order to be able to cultivate good life. (Hauskeller 2011, 78−9.)

An interesting issue to be considered is that how Sandel's democratic and pluralistic republicanism would actually function in the case of enhancements. Sandel states that the ideal of his republicanism is that it does not aim for unified consensual opinions, but allows clamorous pluralism. But how would this work in the case of deliberating policies about genetic enhancement? Sandel seems to be quite explicit in that enhancements ought not to be introduced.

However, as Hauskeller argues, Sandel might not be claiming that no one could choose enhancements or that all enhancements should be forbidden. Hauskeller states that Sandel is not trying to answer the question whether or not it is morally *permissible* or *immoral* to practice genetic enhancements, but whether it is a *good idea*. Hauskeller interprets that for Sandel, the question is not about the goodness or badness of enhancements, but rather an issue of what makes life good. With the use of enhancements, we do not become bad, but we become impoverished and lose something essential required for a good human life: the social practices of humility and solidarity. (Hauskeller 2011, 77.) Thus, according to Hauskeller's interpretation, Sandel does not try to override all other opinions on enhancements, but attempts to bring his visions about the construction of a good life into the debate and to influence the overall views. This interpretation is compatible with Sandel's democratic and pluralistic republicanism.

However, Sandel's absoluteness on the undesirability of enhancements can be also interpreted in a different way. For example, Harris asserts that Sandel does not only offer his argument, but also wants to *outlaw* all other alternative arguments. Harris states that this forbiddance is a way of repressive mastering, by tyrannically controlling the lives of others. (Harris 2007, 121−2.) It remains a question how the proponents of enhancements would be able to have a say in Sandel's democratic and pluralistic republicanism. It might be that Sandel predicts that if people really were virtuous, in the manner of cultivating civic virtues, they would realize that they do not want use enhancements.

Even though Sandel's outlining of his democratic and pluralistic republicanism aims to be suitable for liberal and modern democracies, it does not dispel the fact that Sandel himself represents a tendency for communitarian conservatism, resisting change and preserving the present[29]. In the *Case against Perfection*, Sandel clearly takes a position of a science pessimist, who wants to maintain the present conceptions of normality and humanity.

As Häyry clarifies, the proponents of the more liberal approaches hold that the dangers in the new technologies can be dealt with using more or less moderate regulations, while Sandel tends to think that bad things will unavoidably happen if certain moral

[29] Even though Sandel expresses this conservatism, he cannot straightforwardly be said to be conservative as value-conservative. Sandel, for example, makes efforts in defending gay rights and abortion with arguments not based on rights but conceptions of the good, in that on due reflection, the argument for the moral permissibility of these practices is more convincing than the arguments against them. (Sandel 2005, 237−8.)

boundaries in science are overstepped. (Häyry 2010, 190.) Häyry notes that while the science optimists or science enthusiasts are more worried about the irrational communal beliefs and precautionary reflections concerning new technologies, science pessimists like Sandel are concerned about the pressure that the advances in the life sciences and their commercialization might induce in the society.[30] (Häyry 2010, 222.)

Häyry explains that even though Sandel understands the importance of modern science in our lives, he denies that it should have a decisive role in the principles that govern the society. For Sandel, the decisive role should be directed to dignity and solidarity, and these higher values should not be overridden by the effort to improve individual lives. Häyry construes that Sandel's aspiration is to emphasize that, in the era of genetic enhancements, the important thing is to empower people to be able to concentrate on what is genuinely desirable and make decisions that actually maintain good life, and not solely give in to the commercial marketing efforts. Häyry interprets that, for Sandel, rejecting genetic technologies and considering children as gifts would be a genuine expression of people's integrity and autonomy against the *all-pervading powers of bioscientific industry and uncontrolled market economy*. (Häyry 2010, 232−3.)

Häyry's analysis is compatible with and clarifies Sandel's claim that the proper kind of freedom in our society should be cultivated and the requirements of the society should be fitted to our nature, not the other way around. The common good and the highest human ends should determine the principles that govern the society, not the aim to maximize the use of new technologies and the improvement of individual lives.

[30] Häyry notes that the allegiances between the ethical theories and the normative views on scientific advances are clear, but they could also be the other way around. By mixing tradition and progress, it could also be argued that our best accustomed ways of living can be preserved only by selection and cloning. And we could combine the no-harm ethos of liberal consequentialism with restrictions by insisting that the present and future individuals will suffer physically and mentally from the use of novel technologies. However, the tradition is linked with restrictions, and choice and well-being are paired with permissive policies. The other two logical alternatives are used, if at all, only in counterarguments and in inadequately developed forms. (Häyry 2010, 229−230.)

3. Sandel's argument and responsibility-sensitive egalitarianism

Thus far, I have introduced the main elements in Sandel's argumentation opposing genetic enhancements, and the teleological premises in his philosophy explaining why Sandel gives such an important role to solidarity: solidarity, among other civic virtues, is an intrinsic element of the common good and the highest human ends. It enables both the deliberation about the common good and the expression of the common good. Following the teleological reasoning Sandel suggests that by expressing solidarity in the society, we are able to achieve a society in which the sense of solidarity flourishes.

In the following chapters 3 and 4, I will proceed in examining the philosophical premises in Sandel's claim about the strong relation between luck and responsibility. On what grounds does Sandel suggest that if we became responsible for our genetic constitution, we should bear the burden of our decisions concerning our genome? Why does he come to the conclusion that if we controlled our genome, the sense of solidarity would erode as we would not want to share the burden of the unfortunate anymore? I will assert that these claims share the same justification with the principle of responsibility of responsibility-sensitive egalitarianism. After showing these similarities, I am going to revisit Sandel's argument by applying to it the critique of responsibility-sensitive egalitarianism.

In chapter 3, I will draw the connections between Sandel, egalitarianism and responsibility-sensitive egalitarianism. Because responsibility-sensitive egalitarianism originates from egalitarian theories, claiming that Sandel's argument would have resemblance merely with the principle of responsibility could remain superficial. In order to suggest the similarities, Sandel's compatibility with egalitarian theories must also be demonstrated.

In section 3.1, I will discuss the concept of egalitarianism and present a definition that will be used in this thesis: the core of egalitarianism is in accepting the redistributive institutions as a means for mitigating the contingencies that people face in natural and social lotteries. This definition is derived from Rawls' theory of justice as fairness. In section 3.2, I am going to introduce the central principle of responsibility-sensitive egalitarianism that extends the egalitarian basic principle in that *only* the outcomes of

bad luck should be compensated for with redistributive institutions. I will mainly consider Dworkin's theory of equality of resources here.

In sections 3.3 and 3.4, I will connect Sandel's argumentation to these theories. In 3.3, I am going to assert that even though Sandel and Rawls have different philosophical starting points, Sandel's philosophical orientation is compatible with the defined egalitarian basic principle; it only gives a different justification for the principle. Finally, in section 3.4, I will conclude my examination from Sandel's overall philosophy to his argument about genetic enhancement and show that it accords with the fundamental principle of responsibility-sensitive egalitarianism.

3.1. Egalitarianism and luck

Egalitarian theories are a cluster of varying theses. They all aim at equality, but with different approaches and emphases.[31] In the context of my thesis, their relevant shared characteristic is the normative weight put on contingencies that occur in people's lives. Egalitarian theories assume that natural and social contingencies ought not to have a powerful effect in a person's socioeconomic position, and there should be some kinds of redistributive institutions for the mitigation of the differences that arise from the effect of these contingencies. This basic assumption is famously presented in Rawls' *A Theory of Justice*.

According to Rawls, the basic structure of a just society derives from the assumption that neither the distribution of natural assets nor the historical and social fortune should settle the distribution of income and wealth. Natural talents and the socioeconomic position one is in born are a matter of luck, morally arbitrary, and not deserved. Hence, no one actually deserves the merits of his great natural capacities or favourable social starting place; neither the disadvantageous outcomes of contingencies. Thus, these undeserved inequalities must be compensated for the unfortunate; this is because without the mitigation of the arbitrary effects of natural and social lotteries, the society cannot provide genuine equality of opportunity for its citizens. Rawls emphasizes that even individuals' willingness to try and make an effort, and the following development of natural capacities, is affected by various social circumstances and class attitudes. The

[31] Different approaches include theories such as equality of fair opportunity (Rawls 1999a), equality of access to advantage (Cohen 1989), equality of opportunity for welfare (Arneson 1989), equality of resources (Dworkin 1981), equality of capabilities (Sen 2009), or approaches that emphasize political equality and equal personhood instead of some metric measure of equality (Scheffler 2003, Anderson 1999).

outcomes of natural and social lotteries are mere natural facts, not issues of justice; what is just or unjust is the way that institutions deal with these facts[32]. (Rawls 1999a, 64, 86−7.)

In this context, egalitarian theories contrast theories that do not assume that the contingencies in natural and social lotteries should be mitigated with redistributive institutions. Such non-egalitarian theories consider a person's maintenance of his initial natural and social assets morally weightier than leveling of the playing field with societal compensations. Thus, the difference is in the normative weight given to the different moralities: egalitarians hold that the strongest moral must is in levelling the playing field, while non-egalitarians hold that it is in preserving one's individual rights, including ownership rights; thus, intervening with one's wealth in the name of achieving equality is not considered to be moral.[33] Thus, the distinction is in the different views of the legitimacy of redistributive institutions.

When drawing generalizations about the different notions of the distributive institutions and responsibility, it is important to recall the fundamental differences between the philosophical orientations of Rawls and Sandel, introduced in chapter 2: Rawls' background is in deontology, and Sandel draws from teleology. However, both the concepts of egalitarianism and non-egalitarianism are compatible with the language of rights and the language of the common good: redistributive institutions can be defended either because they are considered to foster the primary rights that people possess, or because they are considered to promote the common good. Therefore, the given notion of egalitarianism is not sensitive to the debate on whether a priority should be given to the good or to the rights. These claims will be further clarified in the upcoming sections.

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[32] Rawls' argumentation about the undeserved nature of natural talent and social position is of great importance when justifying his second principle of justice, the difference principle, which has major role in the legitimization of redistributive institutions. Because of this undeserved nature, it is justified that *social and economic inequalities are to be arranged so that they are to the greatest benefit of the least advantage* (Rawls 1999a, 266). However, the level of equality that the difference principle would ensure can be questioned; according to the difference principle, the rich could give only a minimal portion of their wealth to the poor and still follow the difference principle, especially if the difference principle is viewed in its initial formulation, i.e., *social and economic inequalities are to be arranged so that they are reasonably expected to be to everyone's advantage* (Rawls 1999a, 53). Nevertheless, considering Rawls' powerful argumentation on the undeserved nature of natural talents and socioeconomic positions, it seems to be justified to suggest that Rawls is actually aspiring at a meaningful level of redistribution.

[33] For example, Robert Nozick represents this non-egalitarian, libertarian approach. Nozick holds that individual rights, including ownership rights, are the most fundamental rights in a society, and these rights ought not to be violated in the name of state-oriented redistributive institutions. (Nozick 1975, 189–197, 213–216.)

Hence, in this thesis, I will use the term egalitarianism to refer to those who, with a justification by rights or by conceptions on the common good, aim to some equality with redistributive institutions, and non-egalitarianism to refer to those who, with a justification by rights or by conceptions on common good, do not accept redistributive institutions.

3.2. Egalitarianism, luck, and responsibility

As indicated, the aspiration to mitigate the contingencies of natural and social lotteries with redistributive institutions is an overarching element in egalitarian theories. However, a certain branch has developed the normative status of luck to a deeper level by restricting the domain of compensable features *only* to the outcomes of bad luck. This focusing is made by the so called responsibility-sensitive egalitarians, or luck-egalitarians[34]. While the egalitarian basic idea is about *including* the contingencies of the natural and social lotteries in the compensable domain, the luck-egalitarians make a stricter demarcation in the matters that are not in our responsibility and *exclude* other issues from the compensable domain. The core idea of egalitarianism does not contain such exclusion.

In general, the responsibility-sensitive egalitarians hold that inequalities that derive from the unchosen features in people's circumstances are unjust, while they are acceptable if they derive from the choices people make voluntarily. Hence, the principle of responsibility of the responsibility-sensitive egalitarian theories holds that unequal outcomes are just if they arise from factors for which individuals can properly be held responsible; otherwise they are unjust. (Mason 2006, 216.) The original systematic formulation of a responsibility-sensitive egalitarian position was formulated by Ronald Dworkin (1981)[35], and further developed by e.g. Richard Arneson (1989) and G.A. Cohen (1989), and lately represented by Andrew Mason (2006).

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[34] The term 'luck-egalitarianism' was first introduced by Anderson (1999), in criticizing this theory. It is worth to note that none of the 'luck-egalitarians' identify themselves with that notion, but they all give different names to their theories. For example, Dworkin names his theory as *equality of resources*, Arneson as *equal opportunity to welfare* or later *responsibility-catering prioritanism*, and Cohen as *equal access to advantage*. I will use the terms responsibility-sensitive egalitarianism and luck-egalitarianism interchangeably.

[35] Dworkin makes his own distinction concerning the theories of justice which reflects the distinction made here. Dworkin classifies them to be *continuous*, i.e., ethically sensitive, or *discontinuous*, i.e., ethically insensitive. Continuous theories, such as Dworkin's equality of resources, base their judgments on the justice or injustice of any distribution of wealth, property, or opportunities on assignments of responsibility that distinguish between choice and circumstance. In contrast, discontinuous theories do not

Dworkin names his theory as *theory of equality of resources*[36]. The starting point of equality of resources is in a hypothetical auction, taking place in a desert island, where a number of shipwreck survivors end up. The immigrants start to build a community, accepting that none of them is originally entitled to any of the abundant resources in the island, but that the resources will be equally divided by them. The equal distribution is realized with an equal number of clamshells to each immigrant, and individuals can decide the resources in which they wish to invest their proportion of clamshells. According to Dworkin the division is equal when no one envies one another's bundle of resources. Thus, people get to decide the relative value they give to various resources. (Dworkin 2000, 65−70.)

Dworkin's hypothetical starting position, in which every immigrant ought to have the same proportion of clamshells and should end up with relatively same worth of belongings, begins on an egalitarian ground. However, the egalitarian requirement for mitigating the outcomes of contingencies truly appears only after the auction. Dworkin notes that the initial equality of resources, gained in the auction, will not hold very long because people will act differently with their proportion of clamshells and belongings. These differences derive from the different talents affecting the development of one's resources, different tastes and ambitions influencing how the resources are invested, and also the various accidents and coincidences that people face. As Dworkin suggests, these natural and social contingencies that people face in their lives should be compensated for with redistributive institutions. (Dworkin 2000, 73.)

Thus, Dworkin's theory is compatible with the shared characteristic of the egalitarian theories that Rawls originally positioned: that redistributive institutions are required for the mitigation of natural and social contingencies. It is noteworthy that the egalitarian core idea does not consider the level of pursued equality, but only entails that a meaningful, or more than insignificant, level of equality must be aspired after. Thus, in this context, it is not significant whether Dworkin and Rawls really reach the same level of equality or not; what matters is that they both validate redistributive institutions with similar argumentation.

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reflect the distinctions and assignments of responsibility in deploying standards of just distribution. (Dworkin 2000, 323−5.)

[36] By resources, Dworkin means privately owned resources, although he admits that private resources are overlapping with publicly or commonly owned resources, such as political power (Dworkin 2000, 65).

However, by requiring a certain criterion for the matters that ought to be compensated through redistributive institutions, Dworkin alters his theory into a theory of responsibility-sensitive egalitarianism. This criterion is whether a born inequality was derived from *brute luck* or *option luck*. Option luck is the outcome of deliberate and calculated gambles that have been entered by choice, while brute luck is the outcome of gambles in which the participation was not deliberate. For example, a bad outcome in the stock market is a matter of option luck, whereas being hit by a meteorite is a matter of brute luck. Inequalities that derive from brute luck are a matter of injustice and ought to be compensated for, but if inequalities are the outcome of option luck, there are no reasons for claiming compensation. Hence, outcomes of option luck are choices while outcomes of brute luck are circumstances.[37] (Dworkin 2000, 73.) This principle of responsibility which emphasizes individual responsibility and the normative distinction of choices and circumstances is the fundamental element in responsibility-sensitive egalitarian theories in general.

Dworkin argues that these categories of choice and circumstance are connected to one's personality. They reflect a person's personality, which is constituted from ambition and character. Ambition comprises of tastes, preferences and plans of life, that is, ambitions for making one choice rather than some other. Thus, even if a person had *expensive tastes* and required more resources for a satisfactory life, he could not claim compensation from the society because his tastes belong to the category of choice. A person's character consists of the traits of personality affecting the ways in which ambitions can be pursued, such as a person's energy, industry and persistence. (Dworkin 2000, 322–323.)

In contrast, circumstances include personal and impersonal resources. Personal resources contain physical and mental health and ability, general fitness and capacities,

[37] According to Dworkin, a system of insurances creates a link between brute luck and option luck. Insurances incorporate the events of brute luck to the domain of option luck, because it is possible to make deliberate decisions about having an insurance against non-deliberate accidences. Dworkin outlines a hypothetical insurance market in the initial auction. If a person did not want insurance for some particular brute luck, it would mean, according to Dworkin, that he apparently did not give such a value for avoiding it that he could claim compensation if that brute luck happened to him. Dworkin argues that not buying insurances is similar to taking part in a gamble: those who gamble and lose or gamble and win are in the same position because the chosen life as a gambler includes the risk of losing. Dworkin nevertheless accepts certain paternalistic policies that forbid some gambles and limit the amount that an individual is able to risk in his life. (Dworkin 2000, 74−7.) Thus, Dworkin's hypothetical insurance actually enlarges the domain of choice and diminishes the domain of circumstance. This new limitation raises the question that if nearly all brute lucks are actually option lucks because of the available insurances, will people ever get any compensation if they lack insurances?

including what Dworkin terms ‘wealth-talent’, the innate capacity to produce goods or services that will result in wealth. On the other hand, impersonal resources are the wealth, property, and provided opportunities that one commands, that is, the resources that can be reassigned from one person to another. Thus, outcomes of a person’s ambition and character are not compensable, whereas the outcomes of personal and impersonal resources are. (Dworkin 2000, 322–323.)

Following the responsibility-sensitive egalitarian doctrine, Dworkin emphasizes the importance of the distinction between choices and circumstances to our personal ethics. He states that we are to take responsibility for our voluntary choices; choices that are freely made and not dictated or manipulated by others. Furthermore, we must blame ourselves for the bad choices we have made and try to cultivate our ambitions in order to be able to make better ones. On the other hand, there is no reason to take responsibility for the outcomes of unchosen circumstances, and it is possible to claim compensation if one is not satisfied with his impersonal resources. Responsibility must be taken for one’s own choices, but one cannot be responsible for what is beyond his control. (Dworkin 2000, 323.)

The most debated feature among responsibility-sensitive egalitarians is the distinction between voluntary choices and circumstances, and the question how this distinction can be defined reasonably. Both Arneson and Cohen generally agree with the principle of responsibility, but amplify the demarcation between choice and circumstance. Arneson argues, for example, that preferences ought not to be simplified into the category of choices because of their circumstantial origin (Arneson 1989, 79−80) and that the principle of responsibility should be interpreted as a matter of degree; it is better to give compensation to the one who is less responsible for his present condition (Arneson 2000, 344). In addition, Cohen addresses the problem of the ‘chosen personality’ and asserts especially that expensive tastes cannot, in principal, be placed in the category of choice (Cohen 1989, 922−8; 2004, 3−18). Also, Mason outlines a formulation of responsibility-sensitive egalitarianism that strongly emphasizes the influence of the different social structures to ‘voluntary choices’ as a limiting element of responsibility (Mason 2006, 188−193).

Thus, these theorists face the first issue of responsibility-sensitive egalitarianism, i.e. the obscure line between the issues derived from circumstances and from voluntary choices, by toning down the normative distinction between choice and circumstance. They

outline moderate versions of this distinction, through recognizing the obscurities within the different categories of personality and circumstances. However, it is notable that none of the theorists question the principle of responsibility *as such*, but only the limits of its application.

Also Dworkin admits that the difference between his two concepts of luck and the distinction between choice and circumstance is a matter of degree, and in his writings, he actually considers many of the revisions proposed by the other authors. Dworkin concedes that it might be difficult to identify the category in which a particular piece of bad luck would belong. For example, is lung cancer the outcome of bad option luck because one has chosen smoking and other harmful lifestyles, or a bad brute luck due to genetic and environmental factors? Or is someone's failure to find employment at a decent wage a consequence of his lack of wealth-talent, a compensable matter of personal resources, or his lack of industry, a non-compensable matter of a person's character? Dworkin recognizes that some elements in a personality classified in the field of responsibility and choice can be so disabling – even symptoms of mental disorders – that they should be counted as handicaps. In addition, he argues that even though most of the personal resources are affected by past choices and attitudes, including health care and education, these choices themselves are affected by unchosen domestic and cultural influences. Thus, he concludes that the categories of choice and circumstance are indeed overlapping. (Dworkin 2000, 73–74, 324.)

As noted, the overarching principle of egalitarianism is the aspiration to mitigate the effects of natural or social contingencies with redistributive institutions. In contrast, theories of responsibility-sensitive egalitarianism specify that the elements that ought to be compensated for by the society are restricted *particularly* and *only* to the outcomes of bad luck that derives from circumstances, and no compensations can be claimed in situations where individual responsibility is involved. However, some authors question this demarcation, and argue that the principle of responsibility would actually originate from the overarching principle of egalitarianism.

Will Kymlicka argues that the normative distinction between choices and circumstances is one of the central intuitions of Rawls. According to Kymlicka, Rawls himself did not realize the full implications of this normative distinction, and should have emphasized it instead of focusing on the difference principle, which is not sensitive to choices. Kymlicka says that Dworkin's theory succeeds better in fulfilling the Rawlsian intuition

on the normative distinction between choice and circumstance. Thus, Kymlicka argues that the luck-egalitarian formulation is more faithful to Rawls' original insight than Rawls himself was, because the difference principle interferes with the choice-circumstance distinction by aiming to uplift the position of the worst-off, regardless of the choices or circumstances included. (Kymlicka 2002, 70−5.)

Samuel Scheffler disagrees with this claim. He offers an explanation about the reasons why Rawls can be interpreted as a responsibility-sensitive egalitarian and why these interpretations are misleading. Scheffler argues that Rawls actually lays no claims to including the principle of responsibility in his theory.

According to Scheffler, the reason why Rawls is misinterpreted is in his formulation that social contingencies and natural fortune are arbitrary from a moral point of view, and that the distribution of resources should not be improperly influenced by them (Rawls 1999a, 64, 86−7). This notion is cited as the initiating luck-egalitarian formulation that inequalities deriving from unchosen circumstances are unjust. (Scheffler 2003, 9−11.)

However, Scheffler argues that Rawls did not even try to respect the distinction between choices and circumstances. Scheffler states that Rawls emphasizes the moral arbitrariness of natural and social contingencies, because it creates a basis for the redistributing difference principle by showing that those well-off owe much of their success to arbitrary factors. Thus, Rawls aims to justify a redistributive scheme in the society, and not to validate a connection between responsibility, choice and luck. Furthermore, Rawls aims to identify the most reasonable conception of justice in order to regulate *the basic structure* of a modern democratic society, and not to consider any particular cases of voluntary choices or unfortunate circumstances. (Scheffler 2003, 25−26.)

Scheffler's explanation about the responsibility-sensitive egalitarian fallacy in their interpretation of Rawls appears sound. As Scheffler notes, the emphasis on the normative distinction between choice and circumstance is not a central element in Rawls' philosophy, and his aspiration to mitigate natural and social contingencies is connected to the justification of the difference principle. As will be discussed in chapter 4, Rawls' social contract theory does not aim to categorize compensable issues based on individual responsibilities, but focuses on assuring certain primary assets to every member of the society, regardless of the absence or presence of responsibilities.

3.3. Sandel and egalitarianism

In the following sections 3.3 and 3.4, I will examine Sandel's relation to egalitarianism and responsibility-sensitive egalitarianism. In 3.3, I am going to demonstrate that even though Sandel's philosophical position is different from that of Rawls and does not focus on rights, Sandel does share the basic egalitarian idea presented in this thesis: the aspiration for redistributive institutions for the mitigation of natural and social contingencies. In 3.4, I will extend the similarities to responsibility-sensitive egalitarian theories and argue that Sandel's argumentation about the relation of luck and responsibility is compatible with these theories.

In claiming that Sandel and Rawls share a certain similar philosophical premise, oversimplified statements must not be presented. This is because Rawls, a deontologist, gives a priority to rights, whereas Sandel, a virtue-ethicist, emphasizes conceptions of the good. Thus, possible similarities must not be made too easily and cannot be expanded too far. Despite these restrictions, I argue that the overarching principle in the egalitarian theories can be found in Sandel's thinking.

To start with similarities, Sandel and Rawls share a very similar rhetoric about the normative position of social and natural contingencies. As discussed in chapter 1, Sandel argues in *The Case against Perfection* that when recognizing the contingency of our talents and fortunes, we realize that the profit gained from these contingencies is not deserved, and we must share our wealth with the ones who did not have such a good luck (Sandel 2007, 89−91). Thus, the contingencies in natural and social lotteries have a part in explaining the differences in people's wealth as the outcomes of luck. Therefore, redistributive institutions are justified because people do not deserve their natural assets and must share their wealth with the unfortunate. This argumentation is much alike Rawls' notion, described in section 3.1.

Despite this similar rhetoric, it is important to notice the crucial difference in their deeper motivation. To be able to claim, in a philosophically valid manner, that both Sandel and Rawls share the overarching principle of egalitarianism, it must be explained how this is possible, considering their differing philosophical positions in deontology and teleology. The central issue required in order to justify my claim is to demonstrate their different argumentations for the egalitarian principle. Thus, I claim that they arrive to the same conclusion, but with dissimilar reasoning: Sandel's argumentation emphasizes virtues while that of Rawls highlights rights.

Chapter 2 introduced Sandel's philosophical background as a virtue-ethicist. As illustrated, Sandel's first principle in philosophy is pursuing good life. A good life is achieved by living a virtuous life, and the purpose of a state is to support this by promoting the common good. The common good is the good that promotes the highest human ends and a good life, and the common good is achieved through practices that contribute towards a good life. Furthermore, the definition of the common good is deliberated in the community, and the principles that govern the society ought to derive from this common good.

What are the most central to the common good are civic virtues, including the senses of solidarity, belonging and intersubjective understanding. These senses create a moral bond with the community, motivate mutual respect and understanding, and enable a successful deliberation about the common good. The civic virtues are intrinsic to the common good: by practicing civic virtues that are part of the common good, the expression of these virtues is maintained and enforced in the society, and the society itself becomes more virtuous. Thus, for Sandel, the common good entails a society in which the sense of solidarity flourishes, and this common good is achieved by expressing solidarity. In Sandel's philosophy, the motivation for redistributive institutions can be drawn from these features.

According to Sandel, redistributive institutions are required because large societal inequalities decrease the sense of belonging. As explained in chapter 2, Sandel argues that if the lives of the different socioeconomic groups are too dissimilar, they will practically not encounter each other anymore. And if the members of the society do not achieve common experiences and are not able to cultivate a shared civic identity, they will lose their mutual understanding and the sense of a shared fate. (Sandel 1996, 333; 2009, 266−7.)

This losing of the sense of belonging represents the loss of what Sandel appreciates the most: civic virtues. If the sense of a shared fate and a moral bond with the community vanishes, it is obvious that civic virtues, such as solidarity, are difficult to sustain. Furthermore, it is not likely that the deliberation on the common good successes, as the motivation for defining the common good is not present. Thus, Sandel suggests that economic inequalities should not be too severe, because otherwise the practice of characteristics that cultivate the common good, and the common good itself, become unattainable. Therefore, Sandel concludes that economic arrangements should be

adjusted so that they are the most hospitable for sustaining civic virtues and the sense of community (Sandel 2005, 58).

Sandel notes that these economic arrangements are not to be only, for example, charity or other communal practices, but explicitly suggests these measures to be institutional taxation practices, i.e. redistributive institutions. As Sandel suggests,

> A politics of common good would ... tax the affluent to rebuild public institutions and services to that rich and poor alike would want to take advantage of them. … Focusing on the civic consequences of inequality ... would also help highlight the connection between distributive justice and the common good. (Sandel 2009, 267−8.)

Thus, Sandel does support statist redistributive institutions with the intention to reinforce civic virtues and the sense of belonging in the society. The common good requires that socioeconomic inequality should not increase too much and it is the task of the society, or the political authority[38], to support the promotion of the common good.

Sandel himself notices that he and Rawls share the same outcome with different reasoning. Sandel points out their differences in varying conceptions of freedom. Sandel notes that the Rawlsian justification for redistributive institutions draws from the liberal conception of freedom. This conception, incorporated in Rawls' first principle of justice, entails that, in order to provide genuine freedom for its citizens, the society must assure a measure of social and economic security that is sufficient to the meaningful exercise of the individual plans of life. Sandel himself worries about societal inequalities because they endanger a republican conception of freedom: severe inequality undermines freedom by corrupting the character of both rich and poor and thus destroying the commonality necessary to self-governing. (Sandel 1996, 330.)

Sandel's notion of self-governing is intrinsic to his emphasis on the virtuous deliberation about the common good. If a community is not able to deliberate about the common good, it is obvious that some other conception or principle will rule the society. And as the role and the character of the community are central to Sandel, he cannot

[38] Even though Sandel does not explicitly mention who should be the executor of the tax system, it is plausible that Sandel does not rely only to volunteer-based communal practices, as some interpretation of republicanism could suggest. The task of promoting the common good that Sandel addresses to the political community, or to the self-governing republic, is such that some political authority, and not only political tradition, is needed. Furthermore, Sandel himself speaks about *taxes*, and taxes are not founded on voluntariness, but on obligatoriness. Thus, he must presume some political authority for the execution of the tax system. Sandel endorses a subsidiarity principle, thus he opposes strong federal state policies and advocates for republican self-government. However, this aspiration for self-government does not resist compulsory statist practices.

consider it acceptable that the principles governing the society would not be derived from the conceptions of good of that society.

Thus, Sandel lays claims to redistributive institutions because they preserve and strengthen community institutions by assuring that the lives of the rich and the poor will not be too separated, and thus, pursuing *the common good* remains possible. On the other hand, Rawls argues that it is a *primary right* of every citizen to achieve a certain measure of economic goods from the society.

With this analysis, I propose that it is justified to claim that Sandel does share the overarching principle of egalitarian theories. Obviously, the range of application of this similarity is limited and further comparisons between Rawls' deontological and Sandel's teleological theories cannot be assumed based on the correspondence proposed here. However, this correspondence is enough to relate Sandel to egalitarian theories. Hence, it is possible to suggest a connection between Sandel and responsibility-sensitive egalitarian theories.

3.4. Sandel and responsibility-sensitive egalitarianism

After demonstrating that the egalitarian basic idea can be identified within Sandel's thinking, I will proceed in substantiating its similarities with responsibility-sensitive egalitarianism. As defined, the basic principle of responsibility-sensitive egalitarianism is the criterion of responsibility in qualifying the misfortunes that society ought to compensate the individual for. That is, the inequalities that derive from the unchosen features of people's circumstances are unjust, but inequalities are acceptable if they derive from the choices people make voluntarily. This rhetoric is explicit in Sandel's argumentation about the increase in responsibility and the decrease in solidarity that the use of genetic enhancements would produce.

As demonstrated in chapter 1, Sandel argues that the mastering of our genetic composition would increase individual responsibility when parents became liable for choosing or not choosing the most pre-eminent traits for their children. Parents would be held responsible not only for the choices they make of the use of genetic enhancements, but also for the outcomes of their choices. Sandel argues that power increases responsibility: the more we can influence our genetic constitution and attribute *less to chance and more to choice*, the more we become responsible for our genome. (Sandel 2007, 87.)

The diminishing social solidarity, for its part, follows the new powerful position of responsibility, as the sense of owing to the less fortunate would vanish. Sandel argues that the obligation to share our wealth, gained through contingencies, is with *those who, through no fault of their own,* lack comparable gifts (Sandel 2007, 91). However, this premise of social solidarity would alter if choice replaced chance. If the lack of talents resulted from a choice of not using genetic enhancements, instead of chance, the criterion of *no fault of their own* would be lost. Hence, Sandel ascribes a powerful relationship between responsibility and the ability to choose, which is similar to responsibility-sensitive egalitarian theories. One is to be responsible for the matters that he can control but not responsible for what is beyond his control. Therefore, the ability to master one's genetic constitution would be remarkable to the conception of responsibility.

Sandel's conception of responsibility is explicit in that it is not only a type of moral responsibility that could cause social judgment, but it also has effects in redistributive measures. Sandel suggests that when chance would be replaced with choice with the use of genetic engineering, *those at the bottom of society would be viewed not as disadvantaged, and so worthy of a measure of compensation* (Sandel 2007, 92), and *a willingness to share the fruits of good fortune through institutions of social solidarity* would be at risk (Sandel 2007, 96). Thus, Sandel seems to hold the idea that if a person did not choose a certain desirable trait for himself, such as better intelligence or hearing, that person would be responsible for his defect and could not claim compensations in his situation. This line of thinking resembles the responsibility-sensitive egalitarian principles.

The similarities between Sandel's argumentation on genetic enhancements and responsibility-sensitive egalitarianism have been also noted by other authors. For example, Harris relates Sandel's argument to luck-egalitarianism when Sandel explicates the source of social solidarity and the sense of owing as being derived from the recognition of contingency in the talents people possess. Harris argues that Sandel draws from the luck-egalitarian tradition in holding that people who are worse-off than others through no fault of their own are owed some form of compensation. (Harris 2007, 120.) Also, Kamm associates Sandel to luck-egalitarianism. According to Kamm, Sandel shares the luck-egalitarian idea that if we possessed some traits but had them as a matter of luck or through other people's choices, the costs of having them should be shared; whereas the costs of the chosen traits or the lack of them, have no reason to be

shared. Thus, Kamm suggests that, for Sandel, the level of claim we have against others for aid is thoroughly related to the level of responsibility for choosing or not choosing certain characteristics. (Kamm 2005, 12−3.)

Hence, in his argumentation, Sandel creates a normative distinction between choice and circumstance, and seems to place the redistributive scheme under a responsibility-sensitive criterion, similarly to the responsibility-sensitive egalitarians. Responsibility-sensitive egalitarians use the concepts of choice and circumstance, and in the context of genetic enhancements, Sandel replaces *circumstances* with *chance*; however, these two concepts share the relevant characteristics of contingency and being beyond control.

It is notable that the themes of solidarity and the relation between responsibility and luck are present in Sandel's philosophy in a very different manner. Sandel explicitly discusses the relation between luck and responsibility only in *The Case against Perfection* when he considers the influence that genetic enhancements might have in the society. In contrast, the issue of solidarity is explored throughout his writings: Sandel's philosophy focuses on criticizing the rights-based framework in a society that aims to the state's neutrality on conceptions of the good, and in promoting a politics of moral engagement that aims to the deliberation about the common good. In this teleological reasoning, solidarity and the sense of community are essential.

Hence, the analysis on Sandel's normative position regarding chance, choice and responsibility can be contemplated only based on *The Case against Perfection*, and these notions cannot be reflected to his other philosophical writings. Actually, as will be demonstrated in the next chapters, it seems that the principle of responsibility is not compatible with Sandel's fundamental philosophical premises. Thus, even though I claim that Sandel's *argumentation* on genetic enhancement has similar characteristics with responsibility-sensitive egalitarian theories, I do not claim that *Sandel* would be a responsibility-sensitive egalitarian. As Sandel does not consider the principle of responsibility anywhere else, it remains an open question on what grounds Sandel adopts this notion in *The Case against Perfection.*

The presence of the responsibility-sensitive egalitarian rhetoric in *The Case against Perfection* and the lack of it in Sandel's other writings underline that in *The Case against Perfection* Sandel presumably does not develop an argument about the ways in which he wishes that the notions of humility, solidarity and responsibility *ought* to develop in the era of genetic enhancements, but the ways in which he *predicts* they will

alter. As the knowledge about Sandel's actual opinion towards the responsibility-sensitive egalitarian theories and their principle of responsibility is inadequate, Sandel's relation to them can only be conjectured: Sandel might believe that the present society follows, whether or not he so wishes, the responsibility-sensitive egalitarian doctrine, and he only applies this principle to the era of genetic enhancements; or he can predict that, during the era of genetic enhancements, the responsibility-sensitive egalitarian doctrine will be adopted, whether or not he so wishes. Furthermore, as an opponent of genetic enhancements, Sandel might be merely giving the most disquieting future scenario, which he thinks is a responsibility-sensitive egalitarian one, with the aspiration to direct the public opinion towards banning genetic enhancements. There are numerous possible interpretations.

Hence, the analysis of the relation between Sandel's notions on chance, choice and responsibility, and responsibility-sensitive egalitarianism, can say little about Sandel's philosophical stance towards luck-egalitarianism, because in *The Case against Perfection*, he only predicts what would happen in the era of genetic enhancements, without taking any position to the principle of responsibility *as such*. Even though it is clear that Sandel judges his prediction and considers it undesirable, it is not clear whether he does this merely because he resists genetic enhancements, or also because he resists the principle of responsibility.

Either way, Sandel's *argument* is in a form of responsibility-sensitive egalitarianism, and can be criticized according to it. If Sandel is making a descriptive argument, it is worth to ask why Sandel takes the predominant position of the principle of responsibility in the society as a self-evident fact. Despite the inability of having an analytical framework for the conceptions of chance, choice and responsibility from Sandel's other writings, the responsibility-sensitive egalitarian interpretation of Sandel's argumentation on genetic enhancement provides powerful tools for assessing the plausibility of the argument as such.

4. Sandel's argument and the critique of responsibility-sensitive egalitarianism

By now, the fundamental principles of responsibility-sensitive egalitarianism have been presented, and it has been asserted that Sandel's argumentation is compatible with these principles. In this chapter, I will consider the new perspectives that may be given by the responsibility-sensitive egalitarian interpretation of Sandel's argumentation on genetic enhancements. In order to carry out this analysis, I will first examine the thorough critique to the principle of responsibility of responsibility-sensitive egalitarianism given by Scheffler. After presenting this critique, I will apply it to the relation between chance, choice and responsibility that Sandel presents in his argument.

4.1. Scheffler's appraisal of responsibility-sensitive egalitarianism

Scheffler begins his critique by questioning the overall project of responsibility-sensitive egalitarianism. He asserts that the attempt to create a responsibility-based conception of egalitarian justice, which he notes to be one of the central preoccupations of contemporary philosophy, is merely an effort to answer to the non-egalitarian critique of egalitarianism. This critique entails that egalitarian policies rely on and enforce a diminished conception of individual responsibility and choice. It is claimed that a principle of responsibility is violated by rewarding, with redistributive institutions, those who are lazy or unwilling to work, and by penalizing the industrious and hard-working by forcing them to take part in the redistributive institutions. As Scheffler adduces, the egalitarian response asserts that the most important source of inequalities and poverty is not the level of personal industry and energy, but the differences in social class, inherited wealth and natural ability, none of which individuals choose for themselves and therefore cannot be held responsible for. But apart from demonstrating the more plausible reasons for societal inequalities, many political philosophers have tried to defuse conservative criticism of egalitarian liberalism and the welfare state by showing that choice and responsibility can actually be incorporated into an egalitarian theory of distributive justice.[39] According to Scheffler, this is the background for responsibility-sensitive egalitarian theories. (Scheffler 2005, 5–7.)

[39] Dworkin explicitly offers his theory of equality of resources as a response to the requirements of personal responsibility in a welfare strategy that the non-egalitarian critique poses by accusing that egalitarian policies maintain a 'culture of dependency' (Dworkin 2000, 325−8). Also, Cohen points out that one of the achievements of luck-egalitarianism is that it succeeded to demonstrate that egalitarians

As presented, central to luck-egalitarianism is the principle of responsibility which emphasizes individual responsibility and the normative distinction of choices and circumstances: unequal outcomes are just if they arise from factors for which individuals can properly be held responsible; otherwise they are unjust. Scheffler states that the luck-egalitarians join the non-egalitarians in asserting the principle of responsibility as a fundamental principle of political morality, but differ sharply from the non-egalitarians in their interpretation of the principle and its implications: the non-egalitarians will end up in preserving one's wealth, whereas the egalitarians will claim for redistributive institutions. However, Scheffler argues that by mimicking the non-egalitarian emphasis on choice and responsibility, the advocates of responsibility-sensitive egalitarianism unwittingly inherit some of the non-egalitarians' vices in their theories. (Scheffler 2005, 5−8.)

In the following sections, I will discuss the critique that Scheffler poses to responsibility-sensitive egalitarian theories, in order to apply this critique to Sandel's argument in section 4.2. Scheffler presents various challenges to the normative distinction between choice and circumstance, and asserts that even if there was a particular luck-egalitarian theory that could escape some of his accusations, all the luck-egalitarian theories misunderstand the nature of equality as a value and lose touch with some of the most important reasons why equality, as a value, matters to us in the first place. Finally, I will present Scheffler's point of view in what actually should be central in a proper egalitarian principle of distribution, in which he refers to a Rawlsian understanding of distributive justice.

4.1.1. Unconvincing normative distinction between choice and circumstance

According to Scheffler, the basic element in the principle of responsibility, the normative distinction between choice and circumstance, is both philosophically dubious and morally implausible. Scheffler claims that this normative distinction cannot bear the weight it has been given without incorporating implausible metaphysical categories, and accuses the responsibility-sensitive egalitarian project for embracing an unappealing tendency to moralism. Furthermore, he claims that luck-egalitarianism relies on an unsustainable justificatory aim when trying to demonstrate that its fundamental position is anchored to a moral principle with a broad appeal among people of different classes and political orientations.

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can incorporate "the most powerful idea in the arsenal of the anti-egalitarian right: the idea of choice and responsibility" (Cohen 1989, 933).

Questionable metaphysical commitments

Scheffler begins his critique towards the normative distinction between choice and circumstance by questioning the possibility of making such a clear distinction between the two. Scheffler explains that this distinction is considered to have a large political and economic significance due to the effect of control: voluntary, inequality-justifying choices are thought to be under individuals' control in a way that makes individuals responsible for them, whereas unchosen circumstances are not under individuals' control and thus cannot make the individuals responsible for them. Scheffler, however, argues that the plausibility of this thesis depends on the definitions of the relevant notions of choice, control and responsibility. He claims that only if the distinction between choices and circumstances is viewed as a fundamental metaphysical distinction, it is capable of bearing the enormous political and economic weight. (Scheffler 2005, 11−2.)

According to Scheffler, the required sharp distinction is not plausible. He emphasizes that the category of unchosen circumstances is not a clear entity of the contingent features of the causal order outside an individual's control. In addition, it is not obvious that there are such things as voluntary choices that are fully under the control of individuals and that express their agency. Especially, Scheffler states that it is untenable to hold that these two categories would be in straight contrast with each other. Unchosen personal traits and social circumstances to which one is born always affect one's identity, and people's voluntary choices are routinely influenced by the unchosen features of their personalities, temperaments and social contexts. (Scheffler 2003, 17–18.)

Thus, Scheffler condemns the luck-egalitarians for having a simplistic notion of a voluntary choice and its origins. If the voluntariness of a choice is the criteria for passing responsibility for an individual, the criteria is not sensitive to the circumstantial features that choices possess, and assumes that people are on the same line in the decision-making process. Admittedly, the voluntary nature of a choice is a matter of degree, and some voluntary choices are more genuinely voluntary than others.

For example, the socioeconomic position and cultural background into which one is born have a strong influence on a person's future decisions. Existing wealth, social status and networks, as well as cultural knowledge on societal processes presumably affect a child's personality and his future circumstances. For example, children of

educated parents are more likely to get higher education, and achieving higher education has a tendency to increase awareness on health issues. Unhealthy habits, such as smoking, are more prevalent in the lower socioeconomic groups, thus, it is more difficult not to smoke in these groups.[40] Hence, 'bad' decisions concerning employment, education and health are more common in certain socioeconomic groups than in others.

Risky or disadvantageous lifestyles can also be culturally selected despite the socioeconomic position. For example, if dangerous rock-climbing is highly respected in a community and is an essential element of a high social status, members of that community are likely to make risky choices. Should these choices be counted wholly voluntary if the community expects, and maybe even pressurizes, one to take risks? Is it similarly voluntary to gamble in Las Vegas and to gamble in a city where no casinos exist? Furthermore, some societal groups are at elevated risk to make pressurized choices that lead to poverty. As Anderson mentions, for instance dependent caretakers, often vulnerable to poverty and exploitation, are a fundamental example of a made 'voluntary choice', which nonetheless is unjustified to bear the responsibility for the choice (Anderson 1999, 297−300).

As presented in section 3.2, most of the responsibility-sensitive egalitarians suggest that these difficulties can be avoided by adjusting and limiting the application of the line between choices and circumstances, and the luck-egalitarians typically disagree about the factors that should be counted among people's circumstances and the ones that should belong to the category of choice. But as Scheffler notes, the effect of broadening the categories casts doubts on the distinction's capability to support the luck-egalitarian main thesis (Scheffler 2003, 17–21). Even though only few luck-egalitarians accept a sharp metaphysical distinction between choices and circumstances, Scheffler argues that the plausibility of the luck-egalitarian position depends on a conception of genuine choice that entails this distinction. And as argued above, the existence of such a sharp distinction is not plausible. Hence, it is unclear why choice should matter so much. (Scheffler 2005, 12−13.)

Thus, Scheffler argues that if the limit between choice and circumstance is blurred, the distinction will not be able to bear the normative weight it has been given. And because

[40] For example, Wilkinson and Pickett discuss widely the influence that low socioeconomic status has on a person's life (Wilkinson and Pickett 2009, 31−45).

the obscurity of the distinction must necessarily be acknowledged, it remains open on what grounds is the distinction able to hold such a normative weight.

An unappealing tendency towards excessive moralism

According to Scheffler, a moralistic person is a person who relies on moral judgments to an excessive degree, applies the judgments in contexts in which they are not suitable, and uses them in a simplistic manner.[41] Consequently, political moralism is the use of moralistic judgments in order to justify political positions, and policies can be moralistic if they are based on misplaced moral judgments. Specifically, Scheffler recognizes a familiar and long-established form of non-egalitarian political moralism, the "moralism of responsibility". It uses a simplified and highly moralized discourse of individual responsibility as a way of placing the focus of the reasons for poverty directly on the poor themselves, and enables the well-off to feel that they can take credit for their own success without needing to be troubled for the less fortunate. (Scheffler 2005, 14–15.)

The moralism of responsibility entails that there is something immoral about being poor. This means that to act morally, one must manage one's life without any assistance, at least from the society. The immoral alternative would be turning to the society's assistance when one was not able to make his livelihood. Taking assistance and not coping in one's life is intrinsically bad, whereas coping is intrinsically good. This moralism is obviously simplistic, because the reasons for poverty are much more socially constructed, and people from different socioeconomic positions simply have different possibilities for not taking any assistance from the society. The moralism of responsibility neglects this complexity and assumes that everybody has the same possibilities in overcoming the challenges in their lives.

Scheffler remarks that this non-egalitarian moralism of responsibility is what luck-egalitarians try to undermine when turning the principle of responsibility against the non-egalitarians by showing its dependence on a flawed understanding about the actual sources of inequality in our society (Scheffler 2005, 14–15). Hence, the luck-egalitarians aim to show that the reasons for poverty often belong to the category of brute luck. Thus, in Dworkin's terms, they are the effect of personal and impersonal resources, such as the lack of general capacities, wealth-talent and property.

[41] Scheffler's conception of moralism resembles what Joel Feinberg outlines. According to Feinberg, moralism is the aspiration to enforce a particular morality not as a means to some other social aim, but as an end itself. Moralistic claims are claims that pursue to forbid some actions as such, arguing that the society would be intrinsically better if those acts would not be conducted in it. (Feinberg 1973, 39–40.)

Scheffler argues that even though the luck-egalitarian aim is reasonable, they encounter their own form of moralism by incorporating the principle of responsibility. By claiming that individuals should bear the costs of their voluntary choices, luck-egalitarians fail to recognize the social construction of choices and all the circumstantial issues that affect the voluntariness of a choice. Thus, simplified moral judgments are made about the degree of responsibility that one should bear for his choice. According to Scheffler, policies that oversimplified the existence of voluntary choices and their relation to responsibility would be *harsh, unforgiving and insensitive to context*. (Scheffler 2005, 15.)

Scheffler's accusation of the luck-egalitarian moralism is compelling. It would seem harsh that there was a policy that refused societal assistance from the injured rock-climber, who voluntarily took great risks but was pressurized by his community. Similarly, it would be insensitive to context to refuse assistance for lung-cancer treatment to a person from low socioeconomic position, who did not genuinely know about the risks, or whose societal environment simply did not support a healthier lifestyle. Altogether, it seems unforgiving that there was a policy that denied assistance from anyone who merely happened to make a bad choice and suffers from his present condition.

In addition, Scheffler discusses the 'inward looking' element that the luck-egalitarian moralism would introduce as the degree of voluntary choices or circumstances should be defined in particular situations. In luck-egalitarian allocating decisions, a person's claim to be compensated for a disadvantage always depends on a judgment about the respective contributions made by his will and by unchosen features of his talents and personal circumstances. Thus, luck-egalitarianism encourages a person to look inward when deciding whether there is a legitimate claim on fellow citizens, and it encourages the fellow citizens to scrutinize the deepest aspects of the person and to judge the degree of his responsibility. These judgments would presumably be highly moralized.[42] (Scheffler 2003, 21; also, Anderson 1999, e.g. 310.)

The position of Scheffler and Anderson seems to be plausible. If the principles of redistribution really included an assessment of individual responsibility, especially if it was made by other individuals, it is true that these judgments could be moralistic; they

[42] Feinberg notes a similar tendency that appears in moralistic policies. Feinberg notes that if the surveillance of morality is extended to the private sphere of life, the detecting authorities will insult individual privacy by monitoring the citizen's private life. (Feinberg 1973, 40.)

would emphasize subjectively appreciated moral values that are considered to have intrinsic value and that neglect the more objective reality of the complex circumstances that people are in. However, this risk is not that severe because redistributive institutions are necessarily founded on some objective criteria and common standards. Despite this limitation, Scheffler and Anderson still have a point: even though the allocating criterion was as objectively constructed as possible, it would be founded on the principle of responsibility. As it is difficult to verify the degree of responsibility in particular situations, the decisions would require examining the elements of responsibility, and this scrutiny could lead to 'inward looking' issues.

Altogether, it remains questionable in what ways the luck-egalitarians can endorse, at the same time, the principle of responsibility and the principle that the reasons for societal inequality are socially constructed and are not in the domain of individual responsibility. How could it be justified that the category of option luck is hardly applicable to the questions with socioeconomic positions but is that with other areas of life? Why would the luck-egalitarians recognize the circumstantial features when it comes to questions of poverty but not related to other issues?

The luck-egalitarian response seems to be at a double bind. If the answer is that the luck-egalitarians do understand the circumstantial influence of all choices and recognize the obscure line between choices and circumstances, the plausibility of the normative position of this distinction becomes implausible. What will there be left in the category of choices, if everything is influenced by the circumstances? And if the distinction is that obscure, how can it bear the normative weight placed on it? On the other hand, if the luck-egalitarian response is that, in some cases, or always, they maintain the sharp normative distinction, they can be accused of not considering the circumstantial influence of choices, or of not being consistent with their principle.

Unsustainably ambitious justificatory aim

Scheffler condemns the luck-egalitarians for validating their principle of responsibility by asserting that this principle is based on a common moral principle that is intuitive and enjoys a broad appeal. This assumption is indeed visible; for example, Dworkin suggests that the foundations of his theory are the basic structure of our ethical experience and personal ethics, and that changes in them will result in a moral free-fall.

Scheffler admits that the principle of responsibility is somewhat overlapping with the prevailing political morality of the most liberal societies.[43] Scheffler states that the first part of the principle of responsibility, *inequalities deriving from unchosen features in people's circumstances are unjust*, is widely supported; for example, inequalities derived from sex or race are generally condemned. However, Scheffler asserts that the second part of the principle of responsibility, *inequalities are acceptable if they derive from the choices people voluntarily make*, is not intuitive and does not enjoy broad appeal. (Scheffler 2003, 31−33.)

Scheffler concludes that the luck-egalitarian account of the significance of choice is not morally compelling. He states that there are many unchosen personal attributes that may be disadvantageous, but for which we do not demand compensation, and people may be warranted for compensation regardless of the presence or absence of choice. According to Scheffler, it is not a widespread position that, for example, the denial of medical care from a patient who ended up in his situation due to voluntary choices and high-risk behavior would be fair and acceptable. (Scheffler 2003, 18−9.)

Despite the intuitive pull in Scheffler's normative position, its veracity is not obvious. The debate about who should pay for the costs of the smokers' lung cancer treatments and obese persons' medical expenses is not unified, and some parties constantly propose, both in the USA and in Europe, that the society should not cover these expenses – because the smoker and the obese chose to smoke and have unhealthy lifestyles. However, it is either not true that the principle of responsibility would be the unified opinion, and that the society at large would consider that the reasons to certain medical conditions would be strictly in the individual's responsibility. It is difficult to predict the direction to which this increasing controversy will lead.

Scheffler marks that the advocates of responsibility-sensitive egalitarianism have done interestingly little to defend the principle of responsibility. He suggests that one reason for their confidence is that they think their principle derives from Rawls, and because of this famous origin, no other arguments would be needed. (Scheffler 2003, 7.) But as Scheffler claims, as presented in chapter 3.2, this interpretation of Rawls is misleading. The differences between the conception of equality in responsibility-sensitive

[43] Scheffler recognizes that his categorization of 'luck-egalitarianism' and 'prevailing political morality' is simplified, for it is, of course, certain that not all the notions of luck-egalitarianism and prevailing political morality fit in his definitions and examples. Nevertheless, the simplified notions are valid enough to show the basic overlapping and diverging elements in luck-egalitarianism and prevailing political morality. (Scheffler 2003, 6–7 fn. 2.)

egalitarianism and Rawlsian egalitarianism will be further elaborated in the next sections.

4.1.2. The true nature of an egalitarian principle of redistribution

Thus far, the focus on Scheffler's criticism has been in the normative position of the distinction between choice and circumstance. This debate is extensively present in the responsibility-sensitive egalitarian literature. However, the most powerful critique by Scheffler concerns an issue that the luck-egalitarians do not themselves discuss that much: the justification of the principle of responsibility *as such*. Scheffler questions the notion of equality embedded in this principle and claims that the principle of responsibility cannot be the central premise in an egalitarian principle of redistribution. As will be argued, the nature of an egalitarian redistribution should derive from Rawls' views, not from the responsibility-sensitive egalitarian theories.

Scheffler notes that most of the luck-egalitarian literature focus on the things that they exactly wish to equalize, often formulated as a correct "metric" equality, such as welfare, assuming that justice requires *something* to be distributed equally. And when identified in the right currency of egalitarianism, interpersonal comparisons are considered in the qualification of the forms of disadvantages that should receive compensation in the name of equality. (Scheffler 2003, 13–17.) Questions are generally addressed directly to distribution, without focusing on the implications of distribution. It is claimed that equality follows when people are treated equally with the principle of responsibility, everyone having the same worth of compensation deriving from bad luck. (Scheffler 2005, 20–22.)

According to Scheffler, this luck-egalitarian conception of equality, however, diverges from a more familiar understanding. He argues that equality is not a distributive ideal in the first place, and its aim is not only to compensate for misfortune. Equality is not opposed to luck, but to oppression, to heritable hierarchies of social status, and to the undemocratic distribution of power. Equality is an ideal that governs the relations in which people stand to one another, and it claims that human relations must be conducted based on the assumption that everyone's life is equally important, and that all members of the society have an equal standing. Scheffler underlines that instead of focusing attention on the differing contingencies of each person's traits, abilities and other circumstances, the irrelevance of individual differences for fundamental social and political purposes should be emphasized. (Scheffler 2003, 21–22.) As Scheffler defines,

> As a moral ideal, it [equality] asserts that all people are of equal worth and that there are some claims that people are entitled to make on one another simply by the virtue of their status as persons. As a social ideal, it holds that a human society must be conceived of as a cooperative arrangement among equals, each of whom enjoys the same social standing. As a political ideal, it highlights the claims that citizens are entitled to make on one another by virtue of their status *as* citizens, without any need for a moralized accounting of the details of their particular circumstances. (Scheffler 2003, 22.)

Thus, Scheffler accuses luck-egalitarianism for not being anchored in an understanding of equality as a moral value or normative ideal. Concentrating merely on the right policy of compensation makes it arbitrary and pointless.[44] According to Scheffler, distributive implications cannot be an independent standard of equal treatment, thus minimizing bad luck through certain distributive institutions and finding the optimal way of reflecting the economy based on the distinction between the choices made by individuals and their unchosen circumstances. For Scheffler, redistributive policies are a tool for achieving equal citizenship and must derive from the egalitarian concern about the nature of the relationships among the members of the society and the importance of living together as equals.[45] Scheffler emphasizes that the questions about distribution are important for people who are committed to the social and political value of equality because the realization of this equality needs certain kinds of distributive arrangements. These arrangements must prevent significant distributive inequalities that originate from the translation of natural and social circumstances into economic inequalities. Scheffler doubts that luck-egalitarian distributive justice could do this. (Scheffler 2003, 21−23.)

Scheffler argues that an egalitarian conception of distributive justice cannot have the principle of responsibility as its fundamental position, placing the most significant weight on the distinction between choices and circumstances, for this position does not support the ideal of equal relationships in a society of equals. The principle of responsibility questions the idea that all people would be entitled to certain claims

[44] "If luck-egalitarianism is to be supplied with a compelling motivation, that motivation will need to come from somewhere else [than Rawls' theory]; it cannot simply ride piggy-back on Rawls' remarks about the arbitrariness of the natural lottery or about the need for citizens to take responsibility for their ends" (Scheffler 2003, 30–31).

[45] Anne Phillips makes an interesting remark by noticing that the work on equality has often bifurcated in a disturbing way. Work on economic equality focuses mainly on the principles that regulate the distribution of goods between individuals, neglecting the group nature of contemporary inequality. The second strand of debate on social equality focuses on patterns of oppression in social structures, but lacks interest in the distribution of economic resources. The two discourses seem to talk past one another. However, both are needed in the consideration of an equal society. (Phillips 2000, 237−248.) Contrasted to Phillips's remark, Scheffler's claim of anchoring the distributive principles in some normative ideal of equality reinforces its meaning.

simply by the virtue of their status as persons and citizens, regardless of the circumstances and choices made. Furthermore, the luck-egalitarian distributive justice does not consider the implications of its distributive model. It only seems to contemplate the proper currency of egalitarianism and the proper principle of compensation, and the equal treatment of all people according to the principle of responsibility. But when the implications are not considered, luck-egalitarianism does not have the tools for making sure that all people have an equal standing of being a citizen.

Scheffler asserts that ensuring people's equal standing in a society is the focus on which distributive egalitarianism should concentrate. For ensuring this equal status as citizens, Scheffler strongly rests on Rawls' theory of justice as fairness and primary goods as the appropriate basis for interpersonal comparison. According to Rawls, in order to be able to participate in society and to have the capacity to develop and pursue a rational plan of life, which is constitutive of one's good, the society must distribute certain primary goods that are needed independent from a person's rational plan of life: basic rights, liberties and opportunities, income and wealth, and the social bases of self-respect. These goods are essential elements that citizens need in order to be free and equal persons (Rawls 1999a, 54; 2005, 180–1). Scheffler himself highlights certain 'basic needs', i.e., adequate food, clothing, shelter, education and medical care, as a necessary means for people to be able to participate in political life and civil society on a footing of equality with others (Scheffler 2003, 23)[46].

[46] The primary goods -approach can be applied to the idea that also natural assets would be included in redistributive schemes, as presented in section 1.3.2. Thus, the compensable domain would include not only societal compensations, but also the distribution of natural assets with genetic enhancement technologies. This idea would require the definition of the natural assets that belong to the category of basic needs. For example, Buchanan et al. outline a level of a *normal competitor* that secures functioning in the domain of the Rawlsian equality of opportunity. The concept of a normal competitor is developed from the notion of normal species functioning: the absence of disease, that is, conditions that are adverse departures from the normal species functioning. Buchanan et al., however, add that some natural inequalities, which are not defined as diseases, can seriously limit the ability of an individual to be a normal competitor; for example, emotional cyclicity that impairs a person's relationships and work, but nonetheless is not severe enough to count as the bipolar affective disorder. Buchanan et al. emphasize that these kinds of characteristics should be enhanced within distributive schemes. They claim that the primary moral obligation of the society, in the name of justice, is to keep people close to the level of a normal competitor so that they are able to participate in political, social and economic life, and get their fair share of the normal range of opportunities. (Buchanan et al 2001, 72−5; 121−2.) Buchanan et al. further clarify that it is important that the enhancements within the distributive scheme are well-justified, because the motivation for societal cooperation derives from the believe that the terms of cooperation are fair, and if people realize that scarce medial resources were directed to controversial enhancements, the support for public health system could erode. Even though the limit of normal functioning seems arbitrary and is unable to always deal with some obscure cases in the grey area, the limit still protects the general confidence placed in the fairness of the overall scheme. (Buchanan 2001, 142−4.)

According to Scheffler, these basic needs are to be the proper criteria for social and political institutions when considering the degree of material inequality that is compatible with a conception of a society as a fair system of cooperation among equals. The aim of enabling people to be fully cooperating members of a society provides an independent standard for judging the disadvantages that should be compensated for. By this standard, some disadvantages should be compensated for even if they resulted from voluntary choices, whereas others should not be compensated for even if they resulted from unfortunate circumstances. The significant criterion is not to be the distinction between choices and circumstances, but the requirement to be able to be a cooperating member of the society. (Scheffler 2003, 24−30.)

Thus, Scheffler argues that a proper egalitarian distribution is a distribution that makes the shares fair. And what makes shares fair, is not that people are being compensated for all unchosen disadvantages, while leaving them to bear the costs of their voluntary choices. Scheffler agrees with Rawls on the idea that shares are fair when they are a part of a distributive scheme that enables free and equal citizens to pursue their conceptions of the good within a framework that embodies an ideal of reciprocity and mutual respect. Scheffler refers to Rawls in adducing that primary goods are not to be used in making interpersonal comparisons in all situations, but only in questions that arise in regard to the basic structure. And the practical basis for these comparisons must lie in the features of individual situations that are publicly accessible and that can be appraised without violating people's liberties or subjecting them to unduly intrusive examination. As Scheffler points out, this is a striking contrast to the inward-looking focus of luck-egalitarianism. (Rawls 1999b, 364−5; 1999c, 454-5; Scheffler 2003, 28.)

Scheffler's critique in its entirety culminates with his remarks on the flawed understanding of equality in the responsibility-sensitive egalitarian theories. Even though his remarks about the normative distinction between choices and circumstances are crucial for his critique, his notions of equality nullify the basic assumption of the principle of responsibility by claiming that when pursuing societal equality, responsibility in particular situations does not matter. Responsibility is not the central issue to be taken into account when assuring the equal relationships of citizens. The issue is to assure each citizen's ability to cooperate as a full member of the society.

Comparing the Rawlsian theory with the responsibility-sensitive egalitarian theories also clarifies further the unforgiving element that is embedded in the principle of

responsibility. The principle of responsibility cannot guarantee, without additional conditions, that every person's ability to function as a full member of the society is assured. Considering the egalitarian origin of responsibility-sensitive egalitarianism, this aspiration should be of some value. The principle of responsibility would allow one to forfeit his basic needs because he made bad decisions. Thus, he would be abandoned from societal cooperation and it would be on his responsibility to regain the society's full membership. This kind of a policy is morally implausible, and does not respect a person's status as a citizen.

4.2. Applying Scheffler's examination to Sandel's argument

Scheffler's critique of the principle of responsibility, the fundamental position in responsibility-sensitive egalitarianism, is quite detrimental. When Sandel's argumentation about the increase in responsibility and the decrease in solidarity, induced by the regular use of genetic enhancements, is placed in the context of responsibility-sensitive egalitarianism, it becomes vulnerable to Scheffler's critique. It seems indeed harsh and unforgiving to claim that one would not be entitled to compensations from the society if he declined from using genetic enhancements, if the outcome of that decision would be harmful to the individual. With Scheffler's analysis, it becomes questionable whether the responsibility-sensitive egalitarian approach holds the most desirable premises for the development of redistributive institutions in the era of genetic enhancements.

All the above-mentioned parts in Scheffler's critique can be applied to Sandel's argumentation. It seems to assume an implausible normative distinction between choices and circumstances and sees to entail a questionable understanding about the societal premise for equality.

Firstly, Sandel assumes that the decisions concerning genetic enhancements are the kinds of voluntary choices that one can be held responsible for. This is one of the central issues of the argument. The expanding category of choice is exactly what Sandel is concerned about: he opposes the fact that we could choose our genetic factors, become masters of our genome, and select desirable traits in the genetic supermarket. According to Sandel, this elevated ability of choosing would result in losing our sense of giftedness and humility.

However, it is not a straightforward matter to point out the factors that affect a person's choices. Scheffler claims that unchosen personal traits and characteristics as well as the social circumstances into which one is born all affect a person's decision-making. Hence, components such as cultural background, community beliefs, education, and a person's socioeconomic situation in the society, are likely to affect the decisions one makes in his life. These components cause, for example, different attitudes towards technical, medical and societal authorities, different knowledge of available health services and different lifestyle predispositions. All these varying features would have an impact on the decisions people make concerning genetic enhancements.

In addition, the societal atmosphere could be pressurizing towards the use of enhancements, for example, by being judgmental towards the ones who do not want to use enhancements. As Buchanan et al. remark, this kind of a pressurizing situation exists at present with the use of some mood or memory-enhancing drugs, originally meant for medication, as people feel they have to use these drugs just because also everybody else does (Buchanan et al. 2001, 185−6). This kind of indirect coercion[47] could also appear with genetic enhancements. If one enhances his competitiveness, the others must also do this in order to maintain the same level of performance with the enhancers. Thus, introducing genetic enhancements to the scheme of choices could actually also restrict the actual domain of choices, when not-choosing genetic enhancements could become an impossible choice.

With these remarks about the decisions that would concern genetic enhancements, it can be concluded that the genuine voluntariness of these choices can be questioned. And as Scheffler asks, why should the choice matter so much, if the distinction between choices and circumstances cannot bear the political and economic weight placed on it?

Secondly, a tendency towards moralism exists if the principle of responsibility occurred in the context of using genetic enhancements. The 'moralism of responsibility', presented by Scheffler, would have even more substance if the reasons for poverty were, incorrectly, reduced to genetic characteristics and if individuals were blamed for not enhancing these traits. They would be accused for not using genetic enhancements

[47] The situations in which the society could pressurize individuals for using enhancements can be understood with Philip Pettit's notions. According to Pettit, true societal freedom to lead one's life derives from a conception of freedom as antipower. Antipower means the control that a person has to his own destiny. Possessing antipower is having freedom from arbitrary interference and domination by the ones who have better resources or better ability to use them. The promotion of antipower requires protecting individuals from domination and the expansion of the domain in which they can exercise undominated choices. (Pettit 1996, 589−593.). The absence of antipower could appear as an indirect coercion.

without recognizing the social construction of these choices. Thus, simplified moral judgments would be made about the degree of responsibility that one should bear for his choice.

Furthermore, the ‘inward-looking’ feature would be present if the reasons for some particular poor societal position were examined even more thoroughly; scrutinizing whether or not an underprivileged position arise from a characteristic that could have been leveled up with genetic enhancements. These examinations and judgments would most likely be highly moralized.

Finally, the argumentation considers the principle of responsibility as a self-evident fact and simply assumes that the relation between choosing or not choosing genetic enhancements and being responsible for the outcomes is obvious. However, this assumption is not that straightforward. As Scheffler notes, despite the overlaps with the prevailing political morality, it is not evident that the principle of responsibility would enjoy a broad appeal among people with different political orientations. This division can also be seen within bioethical authors, who disagree with the principle of responsibility used by Sandel, as described in chapter 1.

Even though the principle of responsibility is, at least in some level, present in our societies, for example, in the discussion about whether the smokers’ lung cancers should be treated with societal assets, this principle is at least not as dominating as its proponents suggest. If we believe Scheffler, the principle of responsibility is overrated, but if we believe Dworkin, it is a founding element of our ethical experience. Sandel seems to rely on Dworkin, whichever his reason is: opposing genetic enhancements with any possible argument or a true belief that the society actually follows the responsibility-sensitive egalitarian doctrine, whether or not he so wishes. Regardless of the accurate empirical reality, it is somewhat obvious that the principle of responsibility is not the unified opinion. Thus, it is not certain that the society would actually be that harsh towards the ones who, for one reason or another, did not want to enhance themselves or their children. Actually, Sandel’s scenario seems to be highly implausible, and would probably require unimaginable changes in our political culture. Hence, Sandel adopts an unsustainably ambitious justificatory aim.

These accusations concerning the implausible normative distinction between choices and circumstances could be at least mitigated by defending the responsibility-sensitive egalitarian position with noting that none of the theories is as simple as Scheffler

assumes. As presented, most of them make exceptions and concessions in the distinction between choice and circumstance, and hold different interpretations about the nature of voluntary choices and the involuntary features of these choices. With these exceptions and concessions, and the variety of the definitions of choice and circumstance, the responsibility-sensitive egalitarian interpretation of Sandel's argument could be assessed by examining what kind of 'excusing' elements could be found in the choices that concern genetic enhancements.

For example, it could be asserted that the wish to decline to use genetic enhancements is an expensive taste that derives from unwanted fear towards technology or a consequence of a deep religious upbringing, or that decisions about genetic enhancements are so pressurized by the society that the voluntariness of a choice is undermined. Hence, the degree of responsibility related to the outcomes of enhancement-decisions would not be that harsh. However, these exceptions and concessions do not save the responsibility-sensitive egalitarian foundation. Despite the strength of the defenses, the core of the theory remains philosophically doubtful and morally dubious. If the basic principle is misleading, it is difficult to save it with exceptions.

As with Scheffler's analysis, the deepest source of doubts in the responsibility-sensitive egalitarian interpretation of Sandel's argument can be found in the concept of equality. Similarly to the responsibility-sensitive egalitarianism, the scenario in Sandel's argumentation does not recognize certain demands that people are entitled to simply because of their status as persons and citizens. By placing the most significant weight on the distinction between choices and circumstances, it fails to support the ideal of equal relationships in a society of equals. An egalitarian conception of distributive justice should guarantee that all people have an equal standing of being a citizen, but with the principle of responsibility this assurance is unlikely.

As Scheffler argues, the appropriate principle for redistributive institutions and the proper criteria for deciding, which disadvantages should be compensated for, is not the degree of responsibility that people bear for their situations, as the luck-egalitarians suggest. The proper question is whether or not the unfortunate situation endangers a person's ability to cooperate as a full member of the society, as the Rawlsian interpretation suggests (Scheffler 2003, 24−30).

When applied to the context of genetic enhancements, this means that the proper criteria for societal compensations does not depend on whether some outcomes of genetic characteristics are due to chance or choice, but on whether they affect a person's status as a full member of the society. Thus, some disadvantages should be compensated for even if they resulted from voluntary choices, whereas others should not be compensated for even if they resulted from unfortunate circumstances. The significant criterion is the requirement to be able to be a cooperating member of the society, and the relevant question is whether or not the outcome of a decision concerning genetic enhancement threaten this societal position. As Kamm argues, it is often so that arguments for providing assistance to others are more related to *respect and concern for the value of other persons* than to whether or not they have got themselves into the situation they are in (Kamm 2005, 13).

A policy that prohibited societal compensations from those who did not choose genetic enhancements – or chose the wrong ones – and ended up in a disadvantageous position because of their genome, would indeed be harsh and unforgiving. The effects of genetic enhancements can reach all spheres of life, throughout one's life, and it is a not a humane vision that the consequence of a bad enhancement decision would affect the whole life of a person. Some people would be merely abandoned from the criteria of being full members of the society. If the equal status of citizens is a pursued goal in a society, it must be ensured that the citizens are capable to function in the society, as full members.

Conclusion: Rethinking Sandel's argument

The field of the ethics of human genetics contains diverse scenarios and arguments about the era of genetic enhancements. These scenarios can be hopeful or distressed, and they can predict the destruction of humanity as we know it, or forecast a better and overall happier human life. The predictions are often based on certain philosophical premises, and these premises are not necessarily explicit. Without the explicit articulation of the argument's philosophical foundation, it becomes difficult to assess the argument's validity. If an argument in applied philosophy rests on a philosophical premise for which plausible critique has been indicated, this philosophical critique should be considered also in the assessment of the argument. Arguments in applied philosophy must not be separated from their philosophical roots.

In my thesis, I presented an argumentative analysis on the relation between chance, choice and responsibility submitted by Michael Sandel in his *The Case against Perfection.* My analysis introduces a new level of consideration to the assessment of Sandel's argument by suggesting that it can be criticized by employing the critique of responsibility-sensitive egalitarian theories.

I began the thesis by introducing Sandel's argument that opposes genetic enhancements in its entirety, and then proceeded to examine the conceptions of responsibility and solidarity in it. In addition, I reviewed the central discussion in the bioethical field related to these conceptions. In chapter 2, I explicated the philosophical basis for the normative weight that Sandel gives to the maintenance of solidarity in society: for Sandel, solidarity is an intrinsic element of the common good and a good life. Understanding this teleological reasoning is essential for the claim I constructed in chapters 3 and 4.

In chapter 3, I demonstrated that Sandel's argument about genetic enhancement shares premises with responsibility-sensitive egalitarianism. Before this demonstration, Sandel's compatibility with egalitarian theories had to be substantiated: in order to suggest similarities between Sandel's argument and responsibility-sensitive egalitarianism, the compatibility of Sandel's philosophy and egalitarian theories, from which responsibility-sensitive egalitarianism originates, must be indicated. Hence, I argued that Sandel and Rawls, the archetype of egalitarianism, share the same egalitarian basic principle: the justification of redistributive institutions for the mitigation of natural and social contingencies. However, what was of utmost

importance in my argumentation was that even though Sandel and Rawls share this principle, they arrive to it with very dissimilar reasoning: Sandel's justification has its origins in the teleological pursuance of good life and common good, while Rawls' validation is based on deontology and individual rights.

After this demonstration, I continued to argue that the relation between responsibility and luck that Sandel presents in his argument that opposes genetic enhancements includes the responsibility-sensitive egalitarian principle of responsibility as its foundation: inequalities are unjust if they derive from features that are outside an individual's control, but otherwise they are just. Similar to this thinking, Sandel outlines a view which suggests that if people had control over their genetic characteristics and did not choose genetic enhancements for improving them, they would be held responsible for the possible disadvantages deriving from their characteristics. This responsibility indicates that people could be blamed for their deficiencies, and therefore the social motivation for societal compensations for the disadvantaged, and thus, solidarity, would be eroded.

The twofold conclusion of chapter 3 is that 1) Sandel's philosophy in general can be related to egalitarian theories, because it contains the egalitarian basic principle. This similarity enables suggesting a relation between Sandel and responsibility-sensitive egalitarianism, which originates from egalitarianism. 2) The relation of chance, choice and responsibility in Sandel's argument concerning genetic enhancements is based on the principle of responsibility of the responsibility-sensitive egalitarianism. Therefore, the critique of these theories can be applied to Sandel's argument.

In chapter 4, I revisited Sandel's argument with the responsibility-sensitive egalitarian interpretation. I began by introducing Samuel Scheffler's critique to responsibility-sensitive egalitarianism. Scheffler's conclusion was that the responsibility-sensitive egalitarian doctrine is philosophically doubtful and morally dubious, and is based on a flawed understanding of equality. According to Scheffler, the redistributive principle in an egalitarian theory cannot be founded on a principle of responsibility but should be based on a Rawlsian principle of primary goods: each citizen ought to be guaranteed certain assets of basic needs, regardless of the responsibility and control that people have in particular situations.

At the end of chapter 4, I applied Scheffler's critique to Sandel's argumentation. I asserted that Sandel's scenario about the era of genetic enhancements is as

philosophically doubtful and morally dubious as Scheffler has presented in his critique. I argued that if people were denied societal compensations because of not choosing genetic enhancements, the result could be deserting a group of citizens under the level of basic needs that are required for being able to function as full members of the society. This neglect cannot be justified in a society that wishes to give value to the equal respect and concern for its members. Even if certain responsibility-sensitive egalitarian theories would add a criterion of basic needs in itself, the basic principle of that theory could still not guarantee the level of primary goods for the members of the society.

In other words, the result in chapter 4 is that 1) the principle of responsibility of responsibility-sensitive egalitarianism is not philosophically valid and morally compelling, and it is not a suitable foundation for an egalitarian theory and, therefore, 2) the relation between chance, choice and responsibility in Sandel's argument is not philosophically valid and morally compelling, and is not a suitable foundation for an egalitarian theory.

What, then, does the contemplation in this thesis reveal about Sandel's argumentation? One issue that complicates the question is the one noted in section 3.4, which examined Sandel's relation to responsibility-sensitive egalitarianism, that we do not know whether Sandel's argument is *normative* or *descriptive*. If it is normative, Sandel supports the responsibility-sensitive egalitarian principle and merely highlights the problems that this principle would produce if genetic enhancements were introduced. On the other hand, if Sandel provides a descriptive argument, he might not support the responsibility-sensitive egalitarian doctrine, but instead only predicts an undesirable future scenario.

A reason to believe that Sandel does not actually support the responsibility-sensitive egalitarian doctrine can be derived from his other philosophical writings. A clear fundamental premise for his philosophical thinking is present in these writings: the aspiration for preserving and cultivating a strong sense of community and social solidarity.

This premise seems incompatible with the responsibility-sensitive egalitarian principle of responsibility which does not foster social solidarity and sense of shared fate but instead focuses on blaming people on different aspects and degrees of individual responsibility. Therefore, it is not plausible that Sandel would endorse it. If Scheffler's critique is valid in claiming that the responsibility-sensitive egalitarian theories are philosophically doubtful and morally dubious, then the principle of responsibility is

probably not the best agenda to engender a society in which the sense of belonging, solidarity and a feeling of shared fate flourish. The sense of community is presumably better fostered by assuring that every person is able to function as a full member of the society[48] and not by tracking the degrees of responsibility that people bear in their choices. Thus, if Sandel makes a normative argument that supported the responsibility-sensitive egalitarian doctrine, his argument would be in contradiction with the rest of his philosophical thinking.

This analysis suggests that Sandel has other reasons for discussing the principle of responsibility than its genuine endorsement. The proposed alternatives suggest that either Sandel merely presumes that the present or the future society operates according to the principle of responsibility, or that Sandel, an opponent of genetic enhancements, is trying to present a disquieting scenario about the future with genetic enhancements. Both alternatives ignore Scheffler's remark that the principle of responsibility is not at least that self-evident in the society that it is presented to be. A question that will remain open is why Sandel adopted the principle of responsibility in his argument.

If Sandel abandoned the principle of responsibility, he would have more difficulties in advocating a full ban of genetic enhancements. It is more convincing to oppose enhancements with this principle, for indeed the idea of bursting responsibility and eroding solidarity is disquieting. If the aim is to raise anxiety, and Scheffler's critique is plausible, Sandel's responsibility-sensitive egalitarian scenario is successful. Although some authors, such as Dworkin and Harris, support genetic enhancements in spite of the principle of responsibility, many others reject enhancements if they induced those alterations in our moral landscape that Sandel predicts.

In contrast, if Sandel admitted that the task of redistributive institutions of society is to assure a full cooperative membership for everyone, opposing the use of genetic enhancements on the ground of eroding solidarity and increasing responsibility would be implausible. This is because even though people declined to use genetic enhancements or chose the wrong ones, the society would still assure their basic needs, simply because of their statuses as persons and citizens. This scenario is not so disquieting.

[48] Nevertheless, it is clear that the suggested solution for Sandel is not to alter his argumentation into a Rawlsian one, because Sandel still has major critique against the Rawlsian conception of the unencumbered self, as presented in chapter 2. However, it is possible to support the redistributive ideal of assuring full membership of society and primary goods without adopting Rawls' full theory about the priority of the right over the good.

Various predictions about the future with possible genetic enhancements exist. Often these predictions do not reveal their philosophical premises, but merely focus on outlining different scenarios. Sandel's argument in *The Case against Perfection* is an example of that kind of prediction. To be able to truly contemplate the plausibility of the scenarios, it is important to go back to their philosophical premises and examine the credibility of these premises.

Whether Sandel endorses the principle of responsibility or merely predicts a future according to it, the assessment of Sandel's argument requires that the premises in it are analyzed. The fact that Sandel employs the principle of responsibility in *the Case against Perfection* is either philosophically inconsistent, if his argument is normative, or, if his argument is descriptive, he outlines an implausible view about the foundations of the society.

After analyzing the premises in Sandel's argumentation, I conclude that Sandel's forecast on the changing notions of responsibility and solidarity is not straightforward. By identifying that Sandel's argumentation is based on the responsibility-sensitive egalitarian principle of responsibility, the relation between chance, choice and responsibility in it can be assessed analytically by employing the critique of the principle of responsibility. This analysis indicates that the relation between increasing responsibility and decreasing solidarity in Sandel's argument is philosophically unsound and morally implausible.

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